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CIS Congressional Information Service
Washington, D.C.

APPROPRIATIONS, BUDGET ESTIMATES, ETC.

VOL. 1

STATEMENTS

NINETY-NINTH CONGRESS, SECOND SESSION

(January 21, 1986 to October 18, 1986)

SHOWING

I.—APPROPRIATIONS MADE DURING THE SECOND SESSION OF THE NINETY-NINTH CONGRESS IN REGULAR ANNUAL, SUPPLEMENTAL, AND MISCELLANEOUS APPROPRIATION ACTS; RESCISSION ACTS; DEFERRAL RESOLUTIONS; AND MAJOR ACTS AUTHORIZING APPROPRIATIONS (pp. 1–1791) *(continued in vol. 2)*

PREPARED UNDER THE DIRECTION OF THE COMMITTEES ON APPROPRIATIONS OF THE SENATE AND HOUSE OF REPRESENTATIVES AS REQUIRED BY LAW (U.S. CODE, TITLE 2, SECTION 105)

BY

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68-500 (m)

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COMPILERS' NOTES

1. The Legislative Appropriation Act approved June 7, 1924, provided:

   "In lieu of the data relating to offices created and omitted and salaries increased and reduced, the statement shall hereafter contain such additional information concerning estimates and appropriations, as the committees may deem necessary."

   Such data had been tabulated in previous volumes of this work for each session of Congress from the Fiftieth to the Sixty-seventh, inclusive, covering the fiscal years 1889 to 1924, inclusive.

2. This compilation contains laws affecting, rescinding, or making appropriations which were enacted during the second session of the 99th Congress with the exception of private relief acts containing appropriations. These acts have been omitted from this compilation, but a summary containing the number of the act, the beneficiaries, and the amount appropriated is included.

   There were *twenty-five* appropriation bills and resolutions acted upon to some extent by the Congress during the second session of the 99th Congress (twenty-three were House bills and two were Senate bills) and eight of those bills eventually became law (three were supplementals and five were continuing resolutions). *None* of the thirteen regular annual appropriation bills became law except through the continuing resolution process: *H.R. 5177*—Agriculture, Rural Development, and Related Agencies Appropriations for 1987 passed the House and was reported by the Senate Committee on Appropriations with no further action taken by the Senate; *H.R. 5161*—Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations for 1987 was reported by the House Committee on Appropriations and also by the Senate Committee on Appropriations with no further action taken by either the House or Senate; *H.R. 5438*—Department of Defense Appropriations for 1987 was reported by the House Committee on Appropriations while a companion bill (S. 2827) was reported by the Senate Committee on Appropriations with no further action taken by either the House or Senate; *H.R. 5175*—District of Columbia Appropriations for 1987 was passed by both the House and Senate but was conferenced as part of H.J. Res. 738; *H.R. 5162*—Energy and Water Development Appropriations for 1987 passed the House and was reported by the Senate Committee on Appropriations with no further action taken by the Senate; *H.R. 5339*—Foreign Assistance and Related Agencies Appropriations for 1987 was reported by the House Committee on Appropriations while a companion bill (S. 2824) was reported by the Senate Committee on Appropriations with no further action taken by either the House or Senate; *H.R. 5313*—Department of Housing and Urban Development—Independent Agencies Appropriations for 1987 did not advance in the Legislative process beyond the filing of a conference report in the House; *H.R. 5234*—Department of the Interior and Related Agencies Appropriations for 1987 was passed by both the House and Senate and a conference report was filed in the House with no further action taken; *H.R. 5233*—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations for 1987 did not advance in the legislative process beyond the filing of a conference report in the House; *H.R. 5203*—Legislative Branch Appropriations for 1987 did not advance in the legislative process beyond the filing of a conference report in the House; *H.R. 5052*—Military Construction Appropriations for 1987 was passed by both the House and Senate but no conference report was filed; *H.R. 5205*—Department of Transportation and Related Agencies Appropriations for 1987 did not advance in the legislative process beyond the filing of a conference report in the House; and *H.R. 5294*—Treasury, Postal Service, and General Government Appropriations for 1987 passed the House and was reported by the Senate Committee on Appropriations with no further action taken by the Senate.

   In addition to the thirteen annual appropriation bills that were not enacted into law, *one* continuing resolution (H.J. Res. 730) was reported by the House Committee on Appropriations but did not advance further in the legislative process while *another* continuing resolution (H.J. Res. 748) was vetoed by the President October 9, 1986, and no action was taken by the Congress to override the Presidential veto. A chronology of all twenty-five bills is included in table V, volume 2 (see pp. 3060-3067).

Financing of programs and activities normally included in the thirteen regular annual appropriation bills that did not become law is provided through five continuing resolutions as follows:

—Public Law 99-434 for the period October 1-October 8, 1986;
—Public Law 99-464 for the period October 9-October 10, 1986;
—Public Law 99-465 for the period October 11-October 15, 1986;
—Public Law 99-491 for the period October 16, 1986; and
—Public Law 99-591[1] for the period October 18, 1986-September 30, 1987.

For further information concerning each of the thirteen regular annual appropriation bills that did not become law, see the "note" at the beginning of each of those bills (pp. 47, 49, 51, 53, 55, 57, 59, 91, 93, 127, 143, 145, and 173).

There were no separate "rescission acts" or "deferral resolutions" during the 99th Congress, second session; however, several rescissions and deferrals were included in appropriation acts. It should be noted that amounts *proposed* for rescission are not reflected in the *net totals* for new budget (obligational) authority shown in the various tabulations throughout this volume whereas *amounts rescinded are reflected* in those totals.

3. This volume also contains various comparative tabulations for the session showing, by fiscal years and in both detailed and summarized form, the Presidential budget estimates (requests) for "appropriations" and certain other types of requests involving the appropriation of obligating and spending authority.

4. While required by the Constitution as a necessary prerequisite to the withdrawal of *any* money from the Treasury, through long usage the term "appropriation" acquired a definite, technical word-of-art meaning in relating to many details and summaries in the annual budget of the President, in the making available of obligational and spending authority, and in tabulations and summarizations of congressional fiscal actions. If the proposition did not "appropriate" within the concept thus imparted to the term, then it was not added in the "appropriation" totals. If it did so "appropriate", it was added in.

Thus, in congressional tabulations generally, a "reappropriation" (extension) of a balance of a previous appropriation was not added to the "appropriation" totals even though it provided obligational and spending authority beyond what would in its absence have been the case. An "authorization to expend from debt receipts" (sometimes called "public debt borrowing authority") was not counted as an "appropriation" even though it conveyed both authority to obligate and authority to expend. An authorization to enter into contracts in advance of an appropriation ("contract authorization"), being authority to obligate the Government but not to *expend* money, was not added in the general "appropriation" totals. But a subsequent "appropriation to liquidate" that contract authorization—an authority to expend money but not to create additional obligations—was counted as an "appropriation".

Furthermore, historically, prior to fiscal year 1969 the general budgetary and congressional appropriation totals were arranged and presented so as to give greater emphasis and prominence to those dealing with Federal or Federally-owned funds, as distinct from *trust* funds which the Government theoretically holds in a fiduciary capacity. Although prior to fiscal year 1938 (75th Cong., 1st sess.) such trust funds were relatively insignificant in the total appropriations picture they subsequently came to loom large, and while *separately* tabulated and noted in volumes of this work *previous* to the 90th Cong., 2d sess., they were not included in the aggregate totals, of "appropriations" generally emphasized and cited. (See note, table X, in volumes *prior* to the 90th Cong., 2d sess.). But in subsequent volumes, including this volume, they *are* incorporated in general appropriation totals.

Title 31 U.S.C., section 2, dealing with the national budget system, provides that the term "appropriations" includes, in appropriate context "* * * funds and authorizations to create obligations by contract in advance of appropriations, or any other authority making funds available for obligation or expenditure."

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[1] The Committees on Appropriations of the House and the Senate agreed to the conference report on H.J. Res. 738 on October 17, 1986, and a version of H.J. Res. 738 with three pages missing from the enrolled copy was signed by the President October 18, 1986, as Public Law 99-500. The second enrolled copy included the three missing pages and was signed October 30, 1986, as Public Law 99-591.

Special Note.—A further significant departure in what is now included in several general summary tabulations, which was not so included in these volumes *prior* to the 90th Cong., 2d sess., has to do with obligational or spending authority (including rescissions) conveyed in acts other than the regular annual and supplemental "appropriation" acts. Copies of such acts, and certain specific tabulations related to them, usually appear in one way or another in such prior volumes, but the amounts were not cranked directly into a number of the overall summary tabulations as had been done in volumes beginning with the 90th Cong., 2d sess. This especially affects tables VIII, IX, and X. To retain some consistency of ready identity as between amounts relating to the regular annual and supplemental "appropriation" acts and amounts relating to "appropriations in legislative acts", there is a breakout among these lines in each of these three tables (in some years, the "legislative act" amounts are quite significant, relatively. And sometimes, it is not easy or possible to nail down with absolute precision the amounts involved in the "budget estimates" or the amounts "appropriated"). The total new budget (obligational) authority in these tables are net amounts reflecting rescissions in regular annual and supplemental appropriation acts, rescission acts, and legislative acts.

A new, *unified* budget concept recommended by the President's Commission on Budget Concepts in its report of October 10, 1967, was embraced by the President, and the Budget for 1969 incorporated most of its basic features. The object was to secure usage, as nearly as may be practicable, of a *single* concept of appropriations, receipts, expenditures, lending, and debt in order to promote public and congressional understanding of Federal fiscal and budget actions and matters. The various comparative tabulations and summaries in this volume conform generally to the new concept in respect to "appropriations."

(For a more detailed exposition of the new concept, see the Report of the Commission, especially in relation to "appropriation", pp. 6, 12, 16, 76, 95, and 100; Special Analysis A, the Budget for 1969; and hearings of February 8, 1968, before the Committee on Appropriations, House of Representatives, on the Budget for 1969, p. 40 and following.)

Thus, in lieu of the terms "Estimates" and "Appropriations" used in volumes previous to the 90th Cong., 2d sess., subsequent volumes, including this volume, use the terms "Budget estimates of new (obligational) authority" and "New budget (obligational) authority appropriated". In broad terms, by far the major single difference between aggregate general totals in this volume in contrast to those in volumes previous to the 90th Cong., 2d sess., is the inclusion, in this volume, of *trust* funds (virtually all of which, incidentally, in any session or year, flow automatically from permanent-type enactment of *previous* sessions that thus do not require action in bills of the *current* session). And even under the new concept, in all but a relative handful of instances, the new budget (obligational) authority "requested" and "appropriated" is in the old, conventional "appropriation" form as previously used and understood.

Specifically, "new budget (obligational) authority" is derived by—

Appropriations (as herein above described) excluding appropriations to liquidate contract authorizations; plus
Reappropriations; plus
Contract authorizations; plus
Authorizations to spend from debt receipts.

It must be noted that there are, within the Government, certain inter-fund and intragovernmental payments between accounts that get counted in both places. Principal examples include: Interest on public debt securities held by trust funds; governmental contributions to employee retirement trust funds; and general fund contributions to various insurance programs. And under the new unified concept, certain "proprietary receipts from the public" are offset against budget authority *for budget summary presentation* purposes. This situation can complicate if a simple addition of Federal fund totals and trust fund totals is made without reckoning with this "deduct" problem. [Note.—The aggregate "deduct" figure of $194,691,075,000 for fiscal year 1987 used in several of the summary tables in this volume is the *estimated* amount relating to fiscal year 1987 shown on page 6e–19 of the Budget for 1987. Being an estimate, the "deduct" figure is *subject to revision* as actual data become available; and an updated amount for fiscal 1987 will appear in the budget for 1988.]

5. The Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, changed the fiscal year from the July 1-June 30 fiscal year to an October 1-September 30 fiscal year, and provided for the change to take place with the fiscal year beginning October 1, 1976 (fiscal year 1977). However, the preceding fiscal year (1976) ran from July 1, 1975 through June 30, 1976, thus providing a three-month interim period (July 1-September 30, 1976) for the necessary transition to the new fiscal year. This volume and the nine previous volumes are based upon the October 1-September 30 fiscal year.

   Title X (the "Impoundment Control Act of 1974") of the Congressional Budget and Impoundment Control Act of 1974 established new procedures for the reporting and control of impoundment actions of the President. Included in this volume are reports showing the status of rescissions and deferrals for fiscal year 1986 and the first 3 months of fiscal year 1987.

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[1] Majority and minority members elected February 21, 1985.
[2] Majority and minority members elected January 30, 1985.
[3] Deceased April 10, 1986.
[4] Elected to the Committee May 1, 1986.
[5] Deceased July 17, 1986.
[6] Elected to the Committee July 23, 1986.

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URGENT SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE, 1986

Public Law 99-243

99th Congress, H.J. Res. 520

February 10, 1986

JOINT RESOLUTION

Making an urgent supplemental appropriation for the fiscal year ending September 30, 1986, for the Department of Agriculture.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1986; namely:

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $1,492,857,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation. $1,492,857,000

Approved February 10, 1986.

LEGISLATIVE HISTORY—H.J. Res. 520

CONGRESSIONAL RECORD, Vol. 132 (1986):
Feb. 6, considered and passed Senate and House.

SECOND URGENT SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE, 1986

Public Law 99-263

99th Congress, H.J. Res. 534

March 24, 1986

JOINT RESOLUTION

Making an urgent supplemental appropriation for the Department of Agriculture for the fiscal year ending September 30, 1986, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Agriculture for the fiscal year ending September 30, 1986, and for other purposes; namely:

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

For the operations of the Commodity Credit Corporation, not to exceed $5,000,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation: *Provided,* That Corporation programs shall retain the goal of sufficient production to meet domestic needs, maintain the supply line, and provide for our share of exports at competitive prices: *Provided further,* That after fiscal year 1987, funds available to the Corporation may be used to carry out section 1241(a)(1) of the Food Security Act of 1985, only to such extent or in such amounts as provided in advance in appropriations Acts. The signup agreement should not reduce total production below levels needed to meet domestic needs, maintain the supply line, and provide for an adequate supply for export by either the Commodity Credit Corporation or private corporations or individuals at competitive prices; since by law the proceeds from sales become available for use by the Commodity Credit Corporation, such sales should reduce future appropriations: *Provided further,* That the conservation reserve program shall not replace or reduce any existing conservation program.

$5,000,000,000

It is agreed that at least $1,700,000,000 is available for the insured operating loan program of the Farmers Home Administration. Therefore, the Secretary shall proceed immediately to make loans to farmers and farm owners. If these funds should prove to be insufficient, other funds should be made available to meet emergency credit needs of American farmers and ranchers.

Approved March 24, 1986.

LEGISLATIVE HISTORY—H.J. Res. 534

HOUSE REPORTS: No. 99-493 (Comm. of Conference) and No. 99-499 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 132 (1986):

Feb. 26, considered and passed House.
Mar. 5, considered and passed Senate, amended.
Mar. 13, House concurred in Senate amendment with amendment; Senate disagreed in House amendment, agreed to conference.
Mar. 18, House disagreed to Senate amendment, asked for further conference; Senate insisted on its amendment and agreed to further conference.
Mar. 19, Senate agreed to conference report.
Mar. 20, House agreed to conference report.

URGENT SUPPLEMENTAL APPROPRIATIONS ACT, 1986

Public Law 99-349

99th Congress, H.R. 4515

July 2, 1986

AN ACT

Making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1986, and for other purposes, namely:

TITLE I

GENERAL SUPPLEMENTALS

CHAPTER I

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount, for emergency measures under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $36,700,000, to remain available until expended. $36,700,000

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount, for necessary expenses to carry out the program authorized under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $5,000,000, to remain available until expended. 5,000,000

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount, for "Food Safety and Inspection Service", to protect public health and safety in meat and poultry inspection operations and to meet workload increases resulting from the opening of new or expansion of existing processing plants, $3,700,000. 3,700,000

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for the administration of the Packers and Stockyards Act, and for certifying procedures used to protect purchasers of farm products, as authorized by law, $80,000. 80,000

DAIRY INDEMNITY PROGRAM

For an additional amount, for "Dairy Indemnity Program", authorized by the Act of August 13, 1968 (82 Stat. 750), the Act of August 10, 1973 (87 Stat. 223), and the Act of December 23, 1985 (99 Stat. 1377), $9,000,000, to remain available until expended: *Provided,* That not to exceed a total of $1,000,000 of this amount may be transferred to the Animal and Plant Health Inspection Service and the Food Safety and Inspection Service for contamination testing: *Provided further,* That the remaining $8,000,000 shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

$9,000,000

[*Total, Agricultural Stabilization and Conservation Service, $17,780,000.*]

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

During fiscal year 1986, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 504 of the Housing Act of 1949, as amended, shall not exceed $11,335,000.

−3,000,000
(loan authorization)

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For loans for acquisition and development of building sites for mutual and self-help housing, $1,000,000.

1,000,000
(loan authorization)

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D86–60, relating to the Department of Agriculture, Farmers Home Administration, Rural Housing Insurance Fund, as set forth in the message of March 12, 1986, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

700,000,000
(deferral disapproval)

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $2,000,000.

2,000,000

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $71,598,000, to be derived by transfer from the Commodity Credit Corporation.

71,598,000
(by transfer)

FOOD AND NUTRITION SERVICE

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For an additional amount, for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $20,000,000, to be distributed to the States under the existing fiscal year 1986 growth formula.

20,000,000

COMMODITY SUPPLEMENTAL FOOD PROGRAM

(TRANSFER OF FUNDS)

The Secretary shall return to the Commodity Supplemental Food Program from the Commodity Credit Corporation, $3,950,000, which had been transferred to the Corporation from the Program.

$3,950,000
(by transfer)

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For an additional amount for State and local payments for costs associated with the distribution of commodities by emergency feeding organizations under the temporary emergency food assistance program in accordance with section 204(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note), $2,437,000.

2,437,000

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $5,300,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation.

5,300,000,000

CITRUS CANKER

(TRANSFERS OF FUNDS)

SEC. 1. In order to prevent extensive damage to the Nation's citrus industry and prevent a disruption of national and international commerce in citrus fruits, the Secretary of Agriculture shall use his authority under existing law to transfer not to exceed $11,100,000 from the Commodity Credit Corporation to the Animal and Plant Health Inspection Service to honor a commitment through a cost-sharing program between the Department of Agriculture and the State of Florida, to (1) compensate for infected nursery stock destroyed in fighting the outbreak of citrus canker—a bacterial disease which causes extensive damage to citrus fruits—found in Florida, in 1984, and (2) to cover current and continuing operating expenses of a citrus canker eradication and control program.

11,100,000
(by transfer)

Any funds previously transferred to the citrus canker program, from accounts other than the Commodity Credit Corporation, shall be immediately returned to the account from which transferred.

COOPERATIVE STATE RESEARCH SERVICE

(TRANSFER OF FUNDS)

The Secretary of Agriculture shall transfer $5,000,000 from the Commodity Credit Corporation to the Cooperative State Research Service to meet the matching funds requirement for development of an international trade center at Oklahoma State University.

5,000,000
(by transfer)

AVIAN INFLUENZA

(TRANSFER OF FUNDS)

SEC. 2. In order to prevent widespread damage to the Nation's poultry industry, the Secretary shall use not to exceed $5,000,000 from the Commodity Credit Corporation to control and eradicate avian influenza.

5,000,000
(by transfer)

DEFICIENCY PAYMENTS

(a) Effective only for the 1986 crop of wheat, feed grains, upland cotton, and rice, notwithstanding any other provision of law, the Secretary of Agriculture shall make deficiency payments to producers on a farm under section 107D(c)(1), 105C(c)(1), 103A(c)(1), or 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1), 1444e(c)(1), 1444-1(c)(1), or 1441-1(c)(1)), as the case may be, if the Secretary determines that—

(1) the producers on a farm are prevented from planting any portion of the acreage intended for a commodity to the commodity or other nonconserving crops because of flood, heavy rains, excessive moisture, or drought; and

(2) the farm is located in an area that the Secretary determines has been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) The amount of deficiency payments under subsection (a) shall be computed by multiplying—

(1) 40 percent of the projected payment rate; by

(2) the number of acres so affected but not to exceed the acreage planted to the commodity for harvest (including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of flood, heavy rains, excessive moisture, or drought) in the immediately preceding year; by

(3) the farm program payment yield established for the crop for the farm.

(c) Such sums shall be deducted from crop insurance indemnity payments due as a result of such disaster.

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

In the case of a borrower of a loan made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) that is outstanding on the date of enactment of this Act, the borrower may prepay the loan by payment of the outstanding principal balance due on the loan using private capital with the existing loan guarantee. No sums in addition to payment of such balance shall be charged as the result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931), or the Rural Electrification Administration. To qualify for prepayment, a borrower shall certify that such prepayment will result in substantial savings to its customers or lessen the threat of bankruptcy of the borrower unless in such individual case, in the opinion of the Secretary of the Treasury, to prepay would adversely affect the operation of the Federal Financing Bank: *Provided*, That any regulations under this provision shall be issued and become effective within 30 days of enactment of this Act.

EXCLUSION OF PERMAFROST SOILS FROM DEFINITION OF "WETLAND"

Section 1201(a)(16) of Public Law 99-198 (99 Stat. 1505) is amended by inserting at the end thereof the following: "For purposes of this Act, and any other Act, this term shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.".

ELDERLY FEEDING PROGRAM

For an additional amount for reimbursement at a level of 56.76 cents per meal during fiscal years 1985 and 1986, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal years, $8,500,000, to remain available until expended. $8,500,000

[*Total, Commodity Credit Corporation, $5,308,500,000.*]

[*Total, Chapter I:*

[*New budget (obligational) authority*	*$5,387,417,000.*]
[*By transfer*	*96,648,000.*]
[*Loan authorization*	*−2,000,000.*]
[*Deferral disapproval*	*700,000,000.*]

CHAPTER II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

(INCLUDING DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D86-36 in the amount of $40,000,000 for Economic Development Assistance Programs, as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation. *40,000,000 (deferral disapproval)*

Of the total amount appropriated and available under this head in Public Law 99-180, $790,000 shall be obligated to supplement funds allocated pursuant to section 108(a)(2) of Public Law 99-190.

Of the total amount appropriated and available under this head in Public Law 99-180, $791,000 shall be obligated to supplement funds allocated pursuant to section 108(a)(5) of Public Law 99-190.

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building: *Provided*, That the provisions of 13 CFR 314.4 and OMB Circular A-102 Attachment N are hereby waived so long as the Fairley Group Building remains in the control of the public authority and is used as a public market during the expected useful life of the building.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities" to maintain public warning and forecast services and aircraft services, $10,822,000, to remain available until expended. 10,822,000

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $2,600,000. $2,600,000

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for support of United States prisoners in non-Federal institutions, $3,000,000. 3,000,000

[*Total, Legal Activities, $5,600,000.*]

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING RESCISSION)

For an additional amount for "Salaries and expenses" for the relocation within the District of Columbia of the Washington field office, $10,000,000, to remain available until expended. 10,000,000

Of available funds provided under this head in Public Law 98-166 and Public Law 99-88 for the relocation within the District of Columbia of the Washington field office, $10,000,000 are rescinded. −10,000,000 *(rescission)*

The limitation in Public Law 99-180 on the receipts credited to this appropriation from fees collected to process fingerprint identification records for noncriminal employment and licensing purposes is increased by $1,000,000.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,000,000. 3,000,000

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $18,000,000. 18,000,000

ADMINISTRATIVE PROVISIONS

Of the funds appropriated to the Department of Justice in Public Law 99-180, not to exceed $150,000 from "Fees and Expenses of Witnesses", not to exceed $150,000 from "Salaries and Expenses, Antitrust Division", not to exceed $100,000 from Emergency Assistance in "Office of Justice Programs, Justice Assistance", and not to exceed $100,000 from the Public Safety Officers' Benefits Program in "Office of Justice Programs, Justice Assistance", may be transferred to "Salaries and Expenses, General Legal Activities" to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq.

NATIONAL ASSISTANCE PLAN TO HALT ROCK AND CRACK COCAINE TRAFFICKING

The Attorney General as Chairman of the National Drug Enforcement Policy Board is directed to convene the Board to address on an emergency basis the crisis phenomenon that cocaine freebase, "rock" and "crack" cocaine, have caused in communities throughout the Nation.

Within 60 days of enactment, the Board is directed to report to the Congress and to develop and implement a national plan of assistance to State and local governments to halt trafficking in rock and crack cocaine; to promote effective law enforcement efforts to identify, investigate, prosecute and incarcerate perpetrators engaged in enterprises involving rock and crack cocaine; and, to foster public understanding of the dangerous effects of this substance on public health and safety.

This plan of assistance shall concentrate on methods of using existing laws in such areas as conspiracy, aiding and abetting, forfeiture, possession and trafficking to address this drug with its special potency and distribution characteristics, including the use of rock or freebase houses where the cocaine freebase is processed, distributed, and smoked. The Board's plan should also address those areas where existing law should be amended to strengthen enforcement and prosecution against rock and crack cocaine.

[*Total, Department of Justice:*
[*New budget (obligational) authority (net)* .... *$26,600,000.*]
[*Appropriations* .... *36,600,000.*]
[*Rescission* .... *−10,000,000.*]

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "Salaries and expenses", $283,104,000, to remain available until expended: *Provided,* That $222,104,000 of this amount shall become available for obligation on September 30, 1986. $283,104,000

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "Acquisition and Maintenance of Buildings Abroad", to be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in Public Law 99-180, $409,000,000, to remain available until expended: *Provided,* That such funds shall become available for obligation on September 30, 1986. 409,000,000

COUNTERTERRORISM RESEARCH AND DEVELOPMENT

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for necessary expenses for "Counterterrorism Research and Development", $10,000,000 to remain available until September 30, 1987. 10,000,000

[*Total, Administration of Foreign Affairs, $702,104,000.*]

OTHER

THE ASIA FOUNDATION

Notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, for an additional amount for "The Asia Foundation", $2,000,000, to remain available until expended. 2,000,000

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

The funds made available by this chapter to the Department of State under the headings "Salaries and Expenses", "Acquisition and

Maintenance of Buildings Abroad", and "Counterterrorism Research and Development" shall not be used for any purpose inconsistent with or contrary to authorizing legislation for the Diplomatic Security Program as enacted into law.

[*Total, Department of State, $704,104,000.*]

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for "Care of the Building and Grounds", $46,000. $46,000

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES OF SUPPORTING PERSONNEL

For an additional amount for "Salaries of Supporting Personnel", $1,200,000. 1,200,000

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of Jurors and Commissioners", $3,800,000, to remain available until expended. 3,800,000

STUDY OF CONSTRUCTION OF OFFICE BUILDING

For an amount to enable the Architect of the Capitol and the Secretary of Transportation, in consultation with the Chief Justice of the United States, to study alternatives for the construction of a building or buildings to meet the current and future needs of the Judicial Branch and such other commercial, governmental, cultural, educational, and recreational activities which may appropriately be located in such building or buildings, $1,300,000, to remain available until expended. 1,300,000

ADMINISTRATIVE PROVISIONS

Of the funds made available in title IV of Public Law 99-180, not to exceed $8,000,000 from "Expenses of Operation and Maintenance of the Courts" may be transferred to "Salaries of Supporting Personnel" and not to exceed $500,000 from "Expenses of Operation and Maintenance of the Courts" and not to exceed $2,500,000 from "Salaries of Judges" may be transferred to "Space and Facilities".

Notwithstanding the provisions of section 106(b)(1) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act may continue to serve as a part-time judge for such district until December 31, 1986, or until such time as a full-time bankruptcy judge for such district is appointed, whichever is earlier: *Provided,* That these provisions shall apply only to part-time bankruptcy judges serving in the district of Oregon, the western district of Michigan, and the eastern district of Oklahoma.

[*Total, Courts of Appeals, District Courts, and Other Judicial Services, $6,300,000.*]

[*Total, The Judiciary, $6,346,000.*]

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Maritime Administration —

OPERATIONS AND TRAINING

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D86–53 for Operations and Training, as set forth in the message of February 5, 1986, as revised by D86–53A as set forth in the message of March 20, 1986, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

$1,738,000 (deferral disapproval)

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Grants and Expenses", $18,800,000, to remain available until expended: *Provided,* That notwithstanding the proviso under this head in Public Law 99–88, and notwithstanding section 8(b) of the Board for International Broadcasting Act of 1973, as amended, the amounts placed in reserve, or which would have been placed in reserve, in fiscal year 1985 pursuant to that section shall be available to the Board for grants to Radio Free Europe/Radio Liberty.

18,800,000

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses" for disaster loan making activities, including loan servicing, $2,000,000 to be derived by transfer from unobligated balances in the Small Business Administration, "Disaster Loan Fund".

2,000,000 (by transfer)

ADMINISTRATIVE PROVISION

Section 18006(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "declared before October 1, 1985" and inserting in lieu thereof "which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985".

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $3,900,000, to be derived by transfer from "Acquisition and Construction of Radio Facilities", to remain available until expended.

3,900,000 (by transfer)

The limitation in Public Law 99-180 on the receipts credited to this appropriation from fees or other payments received from or in connection with English-teaching programs is increased by $175,000.

[*Total, Chapter II:*

[*New budget (obligational) authority (net)*	*$766,672,000.*]
[*Appropriations*	*776,672,000.*]
[*Rescission*	*-10,000,000.*]
[*By transfer*	*5,900,000.*]
[*Deferral disapproval*	*41,738,000.*]

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, MARINE CORPS

The limitation for real property maintenance contained under the head "Operation and Maintenance, Marine Corps" in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1189, is amended by striking "$238,000,000" and inserting in lieu thereof "$223,200,000".

TENTH INTERNATIONAL PAN AMERICAN GAMES

(INCLUDING RESCISSION)

For an additional amount for "Tenth International Pan American Games", $8,000,000, to remain available for obligation until September 30, 1987. $8,000,000

Of available funds provided under this head in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1192, $8,000,000 are rescinded. -8,000,000 *(rescission)*

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Of the funds made available under this head in Public Law 98-212, $34,400,000 are rescinded. -34,400,000 *(rescission)*

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds made available under this head in Public Law 98-212, $40,100,000 are rescinded. -40,100,000 *(rescission)*

COASTAL DEFENSE AUGMENTATION

(TRANSFER OF FUNDS)

Of the amounts available to the Department of Defense for "Coastal Defense Augmentation", $21,250,000 shall be transferred to Coast Guard "Acquisition, construction and improvements". *21,250,000 (transfer)*

AIRCRAFT PROCUREMENT, AIR FORCE

The last proviso under the head "Aircraft Procurement, Air Force", in the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended by striking "July 1, 1986" and inserting in lieu thereof "November 1, 1986".

MISSILE PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Missile Procurement, Air Force", $16,000,000, to be derived by transfer from "Aircraft Procurement, Navy, 1986/1988", to remain available for obligation until September 30, 1988, and in addition $329,400,000 shall be derived by transfer as provided for by section 8103 of Public Law 99-190 as amended in this Act.

$16,000,000
(by transfer)
329,400,000
(by transfer)

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this head in Public Law 98-473, $40,000,000 are rescinded.

−40,000,000
(rescission)

[*Total, Procurement, −$114,500,000.*]

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $84,386,000, to be derived by transfer from "Aircraft Procurement, Navy, 1986/1988", to remain available for obligation until September 30, 1987, and in addition $232,500,000 shall be derived by transfer as provided for by section 8103 of Public Law 99-190 as amended in this Act.

84,386,000
(by transfer)
232,500,000
(by transfer)

REVOLVING AND MANAGEMENT FUNDS

ADP EQUIPMENT MANAGEMENT FUND

(INCLUDING RESCISSION)

For an additional amount for "ADP Equipment Management Fund", $100,000,000, to remain available for obligation until expended.

100,000,000

Of available funds provided under this head in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1202, $100,000,000 are rescinded.

−100,000,000
(rescission)

ADMINISTRATIVE PROVISIONS

SEC. 1. Section 8051 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1211, is amended by striking out "Army, Navy, and Air Force" and by striking out the proviso and inserting in lieu thereof: "*Provided,* That such transfers shall not exceed $678,700,000 for Operation and Maintenance, Army; $1,301,600,000 for Operation and Maintenance, Navy; $30,100,000 for Operation and Maintenance, Marine Corps; $608,700,000 for Operation and Maintenance, Air Force; $24,300,000 for Operation and Maintenance, Defense Agencies; $19,300,000 for Operation and

Maintenance, Army Reserve; $47,600,000 for Operation and Maintenance, Navy Reserve; $4,200,000 for Operation and Maintenance, Marine Corps Reserve; $14,400,000 for Operation and Maintenance, Air Force Reserve; $42,100,000 for Operation and Maintenance, Army National Guard; and $35,400,000 for Operation and Maintenance, Air National Guard".

SEC. 2. Section 8037 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, is amended by adding "Titan 34D7 Complementary Expendable Launch Vehicles" at the end thereof.

SEC. 3. Section 8103 of the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended as follows: in subsection (b) insert "the Department of Defense Space Recovery Program, the Civilian Health and Medical Program of the Uniformed Services," directly following "and the Coastal Defense Augmentation account,"; and insert a new provision at the end of subsection (b) before the period, as follows: ": *Provided further,* That $260,000,000 for the Civilian Health and Medical Program of the Uniformed Services shall be available without notification procedures otherwise required by this subsection".

SEC. 4. Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section.

SEC. 5. Of the appropriations available to the Department of the Army during the current fiscal year, $3,000,000, in addition to the appropriation "National Board for the Promotion of Rifle Practice, Army", may be used to conduct the 1986 National Matches at Camp Perry, Ohio, and such ammunition as may be necessary shall be made available for the matches.

[*Total, Chapter III:*

[*New budget (obligational) authority (net)*	*–$114,500,000.*]
[*Appropriations*	*108,000,000.*]
[*Rescissions*	*–222,500,000.*]
[*By transfer*	*662,286,000.*]

CHAPTER III A

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

SEC. 1. AUTHORIZATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 APPROPRIATIONS.

Notwithstanding section 8109 of the Department of Defense Appropria~~tions Ac~~t, 1986 (Public Law 99-190) and except as otherwise provided in this chapter, funds appropriated or otherwise made available to or for the use of the Department of Defense by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), and which were not otherwise authorized by law, are authorized to be obligated and expended as provided in such Act.

SEC. 2. UNAUTHORIZED APPROPRIATIONS.

The following programs and amounts provided in the Department of Defense Appropriations Act, 1986 (Public Law 99-190) are not authorized to be obligated or expended:

RESEARCH AND DEVELOPMENT

Air Force Space Defense System, $15,066,000.

Air Force MEECN communications upgrade, $15,000,000.

OPERATION AND MAINTENANCE

Audit/inventory report reductions not taken in the appropriations Act, $29,000,000.

SEC. 3. PROHIBITION AND LIMITATION ON OBLIGATION OF FUNDS FOR CERTAIN PURPOSES.

MARINER FUND.—Of the funds appropriated or made available by the Department of Defense Appropriations Act, 1986, none shall be available for construction of commercial type vessels, with or without military specifications, for lease to private shipping concerns under the Mariner Fund or any other program.

SEC. 4. AUTHORIZATION FOR OBLIGATION OF CERTAIN UNOBLIGATED FUNDS.

Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), but which may not be obligated or expended for the purposes for which appropriated by virture of section 3 of this chapter, and of the funds made available for obligation and expenditure from prior year unobligated balances by section 8103 of the Department of Defense Appropriations Act, 1986, the following amounts are authorized to be obligated and expended for the stated purposes and are subject to the same notification procedures set forth in section 8103 of the Department of Defense Appropriations Act, 1986, except for the Civilian Health and Medical Program of the Uniformed Services:

(1) for military pay, $1,599,400,000;

(2) for military retirement accrual payments, $2,156,000,000;

(3) for Coastal Defense Augmentation, $140,000,000;

(4) for the Department of Defense Space Recovery Program, $1,498,686,000;

(5) for the Civilian Health and Medical Program of the Uniformed Services, $260,000,000; and

(6) any amounts remaining available from such funds are authorized to be obligated and expended and are available for readiness and for other purposes, including funds authorized for obligation and expenditure for purposes listed in clauses (1), (2), (3), (4), and (5) not otherwise required for such purposes.

SEC. 5. REVISION OF CERTAIN PROVISIONS OF PUBLIC LAW 99-190.

(a) AIR DEFENSE AIRCRAFT COMPETITION.—The paragraph under the heading "Aircraft Procurement, Air Force" in title III of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), is amended by striking out ", of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law" in the matter preceding the first proviso.

(b) REVISION OF DRUG INTERDICTION FUNDS.—Of funds made available in the Department of Defense Appropriations Act, 1986, Public Law 99-190, $35,000,000 made available for purchase of one AC-130H aircraft and $3,000,000 made available for P-3 aircraft modifications shall be available only for the following purposes:

(1) for HC-130 tanker, $18,500,000;

(2) for Aerostat radar, $12,000,000; and

(3) for APS-138 radar system, $7,500,000.

(c) 120MM MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986, for procurement of the 120mm mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in House Report 99-235 and section 8095 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190).

(d) M72E4 LIGHTWEIGHT MULTIPURPOSE WEAPON.—From the funds appropriated in the Department of Defense Appropriations Act, 1986, the Army shall complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 6. TEMPORARY WAIVER ON POLYGRAPH EXAMINATION LIMITATIONS.

In computing the number of counterintelligence polygraph examinations that may be conducted during fiscal year 1986 under section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), there may be excluded from such computation any polygraph examination conducted during the period beginning on the date of the enactment of this Act and ending on September 30, 1986, if such examination—

(1) is conducted by the Air Force under an authorization granted by the Secretary of Defense on November 24, 1981; or

(2) is conducted under an authorization granted by the Secretary of Defense on August 31, 1982, and is conducted on a person who is participating in a national program—

(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) which is under the purview of the Director of Central Intelligence; and

(C) for which a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

Using available funds, the Secretary of the Army shall take such actions as may be necessary to remedy slope failure and erosion problems along the Tombigbee River in Alabama in order to protect the Highway No. 39 Bridge at Gainesville, Alabama, at an estimated cost of $1,500,000. Such actions shall be coordinated with the State of Alabama: *Provided*, That using available funds, $1,400,000 shall be available to initiate construction at Mount St. Helens, Washington: *Provided further*, That using available funds, the Secretary of the Army is directed to use $8,200,000 to initiate construction of the Cooper River seismic modification project in South Carolina.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount, for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $25,000,000, to remain available until expended. $25,000,000

Using available funds authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, the Secretary of the Army shall, in consultation with State officials of the Great Lakes region, develop emergency contingency plans to prevent or control near term flooding along the Great Lakes. The Secretary shall report to Congress within sixty days after the date of enactment of this Act on the contingency plans. The Secretary is authorized to spend up to $1,000,000 for the purposes of this provision.

GENERAL EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "General Expenses" $3,000,000 to remain available until expended, and to be derived from "Operation and Maintenance, General".

$3,000,000
(by transfer)

ADMINISTRATIVE PROVISION

The authority to acquire new buildings and facilities, including necessary real estate, for the United States Army Engineer District, Walla Walla, Washington, as provided for in Public Law 99-88, 99 Stat. 293, 316, may be implemented by lease purchase contract or by any other appropriate means.

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(DISAPPROVAL OF DEFERRAL)

Of the funds which remain deferred as of May 1, 1986, pursuant to deferral D86-38 relating to the Department of Energy, "Energy Supply, Research and Development Activities", the Congress disapproves the deferral of $23,156,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

23,156,000
(deferral disapproval)

ATOMIC ENERGY DEFENSE ACTIVITIES

(TRANSFER OF FUNDS)

For an additional amount, for "Atomic Energy Defense Activities", $62,000,000, to be derived by transfer from the Department of Defense appropriation "Research, Development, Test and Evaluation, Defense Agencies", to be merged with this Account and remain available until expended: *Provided*, That the transfer of funds provided in this paragraph shall not become available for such transfer until 30 days after the Committees on Appropriations of the House of Representatives and the Senate receive from the Department of Defense a list of the specific sources of funds to be used for such transfer.

62,000,000
(by transfer)

DEPARTMENT OF DEFENSE

ADMINISTRATIVE PROVISION

Of the funds previously appropriated or made available for research, development, test and evaluation for the Department of Defense for fiscal year 1986 pursuant to Public Law 99-190, $55,600,000 shall be available only for grants or contributions to educational institutions for research activities, construction of research related facilities and for other related purposes as provided in House Report 99-450 accompanying House Joint Resolution 465, Public Law 99-190, and the Secretary of Defense shall provide these grants or contributions expeditiously: *Provided,* That such grants or contributions are a one time obligation and expenditure and shall not interfere with or change the existing system of other competitive research grants or contracts.

[Total, Chapter IV:

[New budget (obligational) authority	*$25,000,000.]*
[By transfer	*65,000,000.]*
[Deferral disapproval	*23,156,000.]*

CHAPTER V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

BILATERAL ECONOMIC ASSISTANCE

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSFERS OF FUNDS)

For an additional amount for the "Economic Support Fund", not less than $50,000,000, which shall be available only for the United States contribution to the International Fund established pursuant to the November 15, 1985 agreement between the United Kingdom and Ireland, to be derived from funds appropriated or otherwise made available by the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), as follows: $4,900,000 by transfer from title I of such Act, $12,350,000 of funds made available by such Act for the "Economic Support Fund", $9,100,000 by transfer from title II of such Act, excluding funds made available for the "Economic Support Fund", $20,000,000 by transfer from title III of such Act, and $3,650,000 by transfer from title IV of such Act.

$50,000,000 (by transfer)

DEPARTMENT OF STATE

ANTI-TERRORISM ASSISTANCE

(TRANSFERS OF FUNDS)

For an additional amount to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $2,739,000, to be derived by transfer from any of the funds appropriated or otherwise made available in titles I, II, III, and IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190).

2,739,000 (by transfer)

ASSISTANCE FOR HAITI

Of the funds made available in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), subject to the notification process of the Committees on Appropriations, up to $21,700,000 shall be made available for assistance to Haiti. Of this amount, $1,700,000, or the equivalent amount in local currencies, may be transferred to the Inter-American Foundation for use by the Foundation for programs for Haiti. The assistance made available pursuant to this paragraph shall be used to promote the transition to democracy by means such as generating local currency for use for literacy projects, rural development, and job creation. The assistance provided for Haiti pursuant to this paragraph shall be in addition to the assistance previously allocated for Haiti.

It is the sense of the Congress that the United States Government should cooperate with the Government of Haiti in recovering for the Haitian people the wealth that was illegally obtained by former president Jean-Claude Duvalier and his former government ministers and associates through diversions of funds and property, regardless of whether that wealth is located in the United States or abroad.

Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided*, That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided further*, That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", $100,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance. $100,000,000

MILITARY ASSISTANCE

For an additional amount for "Military Assistance", $50,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance. 50,000,000

EXPORT-IMPORT BANK OF THE UNITED STATES

Direct loan authority made available in title IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), for the Export-Import Bank of the United States is available through September 30, 1987.

[*Total, Chapter V:*
[*New budget (obligational) authority* .... *$150,000,000.*]
[*By transfer* .... *52,739,000.*]

CHAPTER VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSIONS)

Of the amounts of budget authority that become available during fiscal year 1986 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, not less than $5,250,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded. −5,250,000,000 *(rescission of contract authority, indefinite)*

Of the amounts of budget authority that become available during fiscal year 1987 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, $6,042,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded on or after October 1, 1986 and before September 30, 1987. −6,042,000,000 *(rescission of contract authority, indefinite, fiscal year 1987)*

RENT SUPPLEMENT PROGRAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1986 by not more than $41,390,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

[1]–$1,158,920,000

[2]*–41,390,000*

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1), is further reduced in fiscal year 1986 by not more than $10,128,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

[1]–283,584,000

[2]*–10,128,000*

HOUSING PROGRAMS AND COMMUNITY PLANNING AND DEVELOPMENT

(DISAPPROVAL OF DEFERRALS)

The Congress disapproves the following proposed deferrals relating to the Department of Housing and Urban Development as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President: (1) D86–41 relating to Housing Programs, "Annual contributions for assisted housing", (2) D86–45 relating to Housing Programs, "Housing for the elderly or handicapped fund", (3) D86–46 relating to Housing Programs, "Nonprofit sponsor assistance", (4) D86–48 relating to Community Planning and Development, "Community development grants", and (5) D86–50 relating to Community Planning and Development, "Rehabilitation loan fund". The five disapprovals shall be effective upon enactment into law of this Act and the amounts of the proposed deferrals disapproved herein shall be made available for obligation.

[3]*2,300,805,000*

[3]*530,220,000*

[3]*457,000*

[3]*500,000,000*

[3]*131,133,000*

FEDERAL HOUSING ADMINISTRATION FUND

The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $57,580,000,000 of mortgage and loan principal.

57,580,000,000 (limitation on guaranteed loans)

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act during fiscal year 1986 is increased by an additional $49,000,000,000 of principal.

49,000,000,000 (limitation on guaranteed loans)

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[1] Rescission of contract authority, indefinite.

[2] Limitation on annual contract authority, indefinite.

[3] Deferral disapproval.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFERS OF FUNDS)

For an additional amount for "Salaries and expenses", $30,000,000, of which $21,365,000 shall be derived by transfer from the various funds of the Federal Housing Administration and $8,635,000 shall be derived from the assets of the Revolving Fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b). *$30,000,000 (by transfer)*

[*Total, Department of Housing and Urban Development:*
[*New budget (obligational) authority (net). −$12,734,504,000.*]
[*Rescission, fiscal year 1986 .... −6,692,504,000.*]
[*Rescission, fiscal year 1987 .... −6,042,000,000.*]

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,553,000. 1,553,000

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $3,000,000, to be derived by transfer from "Research and development". *3,000,000 (by transfer)*

CONSTRUCTION GRANTS

Of the funds appropriated in section 119 of Public Law 99-190 for necessary expenses to carry out title II of the Federal Water Pollution Control Act, an additional $1,200,000,000 is hereby made available: *Provided,* That the allocation of the $1,200,000,000 made available by this paragraph shall be in accordance with the formula in effect on October 1, 1984. *1,200,000,000 (release of appropriated funds)*

FEDERAL EMERGENCY MANAGEMENT AGENCY

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

For an additional amount for "Disaster relief", $250,000,000, to remain available until expended. 250,000,000

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $2,920,000, to be derived by transfer from "Emergency management planning and assistance". *2,920,000 (by transfer)*

National Aeronautics and Space Administration

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Space flight, control and data communications", $431,000,000, to remain available until September 30, 1987: *Provided,* That, upon enactment into law of this Act, $5,000,000 shall be transferred to "Research and development": *Provided further,* That $100,000,000, to remain available until September 30, 1988, is appropriated for fiscal year 1987 for "Space flight, control and data communications", and shall not become available for obligation until October 1, 1986: *Provided further,* That funds appropriated for fiscal year 1987 in the previous proviso may not be obligated until the Administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the direction of the recommendation.

$431,000,000

100,000,000 *(advance appropriation, fiscal year 1987)*

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", $38,100,000, of which $24,000,000 shall be derived by transfer from "Research and development" and $14,100,000 shall be derived by transfer from "Space flight, control and data communications".

38,100,000 (by transfer)

[*Total, National Aeronautics and Space Administration, $531,000,000.*]

Veterans Administration

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $272,000,000, to remain available until expended.

272,000,000

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $91,000,000, to remain available until expended.

91,000,000

MEDICAL CARE

(TRANSFER OF FUNDS)

For an additional amount for "Medical care", not less than $25,000,000 nor more than $30,000,000, to be derived by transfer from "Construction, major projects".

30,000,000 (by transfer)

GENERAL OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "General operating expenses", up to $6,000,000, to be derived by transfer from "Construction, minor projects".

6,000,000 (by transfer)

VETERANS JOB TRAINING

(TRANSFER OF FUNDS)

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as au-

thorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $35,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction, minor projects".

$35,000,000 (by transfer)

Administrative Provisions

Retroactive to October 1, 1985, all payments for appraisals performed on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made in conjunction with loan guarantee operations shall be charged to the VA loan guaranty revolving fund.

Notwithstanding section 409 of Public Law 99-160, of the funds provided by that Act for the Neighborhood Reinvestment Corporation, an additional $250,000 may be used for object classification expenses other than personnel compensation and benefits.

[*Total, Veterans Administration, $363,000,000.*]

Federal Home Loan Bank Board

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

The limitation on administrative expenses for fiscal year 1986 is increased by $3,429,000.

3,429,000 (limitation on administrative expenses)

[*Total, Chapter VI:*

[*New budget (obligational authority (net)*	*−$11,588,951,000.*]
[*Appropriations, fiscal year 1986*	*1,045,553,000.*]
[*Rescissions*	*−6,692,504,000.*]
[*Appropriations, fiscal year 1987*	*100,000,000.*]
[*Rescission*	*−6,042,000,000.*]
[*By transfer*	*145,020,000.*]
[*Limitation on administrative expenses*	*3,429,000.*]
[*Limitation on guaranteed loans*	*106,580,000,000.*]
[*Limitation on annual contract authority, indefinite*	*−51,518,000.*]
[*Deferral disapproval*	*3,462,615,000.*]

CHAPTER VII

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

LAND ACQUISITION

(DEFERRAL)

Of the funds previously appropriated under this head, $3,000,000 shall not become available for obligation until October 1, 1986.

−3,000,000 (effect of new deferral)

United States Fish and Wildlife Service

LAND ACQUISITION

For an additional amount for "Land acquisition", $2,373,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

2,373,000

National Park Service

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $13,470,000.

13,470,000

CONSTRUCTION

For an additional amount for "Construction", $3,850,000, to remain available until expended. $3,850,000

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1986 by 16 U.S.C. 4601–10a is rescinded. –28,710,000 *(rescission of contract authority)*

ADMINISTRATIVE PROVISIONS

None of the funds made available by this or any other Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington: *Provided*, That the Cape Cod National Seashore Advisory Commission established under section 8(a) of the Act of August 7, 1961 (Public Law 87–126; 75 Stat. 292) is reestablished and extended through February 28, 1996: *Provided*, That none of the funds made available by this or any other Act may be used to drain lakes in Delaware Water Gap National Recreation Area prior to approval by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97–942.

[*Total, National Park Service (net), –$11,390,000.*]

Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $1,400,000. 1,400,000

Minerals Management Service

LEASING AND ROYALTY MANAGEMENT

For an additional amount for "Leasing and royalty management", $200,000. 200,000

Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985.

Office of Surface Mining Reclamation and Enforcement

REGULATION AND TECHNOLOGY

(RESCISSION)

Of available funds under this head, $210,000 are rescinded. –210,000 *(rescission)*

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $29,204,000, of which $1,500,000 shall be transferred to the Chippewa-Ottawa Treaty Fishery Management Authority (COTFMA) to provide the Federal contribution related to the compromise agreement resulting from the U.S. v. Michigan fishery litigation: *Provided*, That these funds shall be made available to COTFMA after 29,204,000 receipt and approval by the Secretary of the Interior or his designated representative of an investment plan for establishing a fund, which shall be invested at interest: *Provided further,* That only the interest income from such fund is to be available for fisheries management activities by the Chippewa-Ottawa Treaty Fishery Management Authority: *Provided further,* That funds appropriated hereunder shall be repaid to the Federal Government after a fifteen (15) year period: *Provided further,* That should the Chippewa-Ottawa Treaty Fishery Management Authority dissolve at any time during the fifteen (15) year period, funds appropriated hereunder shall immediately be repaid to the Federal Government: *Provided further,* That the levels established for general assistance by Public Law 99-88 (99 Stat. 388), are the maximum allowable payments.

CONSTRUCTION

For an additional amount for "Construction", $2,500,000, to remain available until expended.

$2,500,000

(DEFERRAL)

Of the funds previously appropriated under the heading "Bureau of Indian Affairs' construction" in Public Law 98-8 (90 Stat. 20), $2,500,000 shall not become available for obligation until October 1, 1986.

−2,500,000 (effect of new deferral)

REVOLVING FUND FOR LOANS

Public Law 99-190 (99 Stat. 1237) is amended under this heading by deleting the word "may" in the proviso and inserting in lieu thereof the word "shall" and by adding the following new proviso before the period: ": *Provided further,* That the United States secure a lien in the amount of the principal and interest of the loan upon trust or other funds of the tribe including any net recovery the tribe may receive from any final award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in Docket Numbers 161-79L and 327-81L presently pending before the United States Claims Court".

[*Total, Bureau of Indian Affairs, $31,704,000.*]

TERRITORIAL AND INTERNATIONAL AFFAIRS

COMPACT OF FREE ASSOCIATION

For grants and necessary expenses for the Federated States of Micronesia and the Marshall Islands, as provided for in sections 177, 122, 221, 223, 103(k), 105(c)(2), and 105(m) of the Compact of Free Association, $201,500,000, as authorized by Public Law 99-239, including $8,000,000 for initial capitalization of a trust fund to fund the Prior Service Benefits portion of the Trust Territory Social Security System in accordance with section 105(m) of Public Law 99-239, and $2,750,000 for the Enjebi Community Trust Fund, as authorized in section 103(k) of Public Law 99-239, and $9,340,000, to remain available until expended, for grants and necessary expenses to the Republic of Palau, to become available for obligation upon the enactment of S.J. Res. 325 or similar legislation: *Provided,* That for purposes of economic assistance as provided pursuant to the Compact, the effective date of the Compact shall be October 1, 1985.

201,500,000

9,340,000

For grants and necessary expenses for the Federated States of Micronesia and the Marshall Islands, as provided for in sections 211, 212, 213, 214, 215, 216, 217, and 231 of the Compact of Free Association, and section 111(b) of title I of the Compact of Free Association

Act of 1985 (Public Law 99-239), all sums that are or may be required in this and subsequent years are appropriated, and shall be drawn from the Treasury, as authorized by Public Law 99-239, and as may be authorized upon the enactment of S.J. Res. 325 or similar legislation: *Provided*, That $60,719,000 of the amount made available to the "Trust Territory of the Pacific Islands" appropriation pursuant to Public Law 99-190 shall be considered to have been made available for the purposes of this appropriation for fiscal year 1986 and expended as provided for by the Compact of Free Association: *Provided further*, That for purposes of economic assistance as provided pursuant to the Compact, the effective date of the Compact shall be October 1, 1985.

Funds appropriated in this Act, under the terms of Public Law 99-239, the Compact of Free Association, for Kwajalein impact payments to the Republic of the Marshall Islands may be used to reimburse the Department of the Army for interim use payments made by the Department of the Army since October 1, 1985.

[*Total, Territorial and International Affairs, $210,840,000.*]

[*Total, Department of the Interior (net), $234,917,000.*]

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and private forestry", $161,000.

$161,000

NATIONAL FOREST SYSTEM

For an additional amount for "National forest system", $165,700,000.

165,700,000

CONSTRUCTION

For an additional amount for "Construction", $1,700,000, to remain available until expended.

1,700,000

LAND ACQUISITION

For an additional amount for "Land acquisition", $4,436,000, to remain available until expended.

4,436,000

TIMBER SALVAGE SALES

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $3,153,000 of the proposed deferral D86-3 relating to the Department of Agriculture, U.S. Forest Service, "Timber Salvage Sales", as set forth in the message of October 1, 1985, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

3,153,000
(deferral
disapproval)

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

SEC. 1. Provisions of 7 U.S.C. 147b shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, within funds made available by this Act or any other appropriations Act, release on behalf of the United States the condition described in subsection (b) of this section with respect to the tract of land described in subsection (c) of this section: *Provided*, That—

(1) the State of Georgia, acting by and through the Georgia State Properties Commission, enters into an agreement with the Secretary of Agriculture stating that the State of Georgia will convey the described tract of land to Brantley County, Georgia, for consideration determined adequate by the Commission, and which consideration shall, if withdrawn from the account, be used exclusively for public purposes;

(2) the State of Georgia shall pay into the Treasury of the United States as miscellaneous receipts a sum of money which the Secretary of Agriculture deems is sufficient to reimburse the administrative costs of releasing the condition pursuant to this subsection; and

(3) the State of Georgia shall provide to the United States the fair market value of the described tract of land, as determined by the Secretary, either in cash or by exchange of lands, waters, or interest therein.

(b) The condition to be released pursuant to subsection (a) of this section is the condition found in that certain deed dated March 30, 1955, which conveys from the United States to the State of Georgia, Georgia Forestry Commission, certain real property in Ware and Brantley Counties, Georgia, and which deed was recorded on May 17, 1955, in the Office of the Secretary of State, State of Georgia, providing that the land conveyed be used for public purposes and that title to said land revert to the United States if it is not used for public purposes.

(c) The parcel of land to which the release provided for in subsection (a) of this section is described as follows:

All that tract or parcel of land, situated, located and being in Land Lot No. 128 in the 9th Land District of Brantley County, Georgia, being 55.04 acres, more or less, and being more particularly described as follows: Beginning at the point where the centerline of the SCL Railroad tracks from Waycross to Brunswick intersects the centerline of that certain Brantley County paved road known as County Road No. 15, and thence N 08 degrees 54′00″ W a distance of 97.72 feet to a point; thence, N 79 degrees 40′50″ E a distance of 40.02 feet to a point; thence, N 79 degrees 40′50″ E a distance of 260.03 feet to a point; thence, N 68 degrees 30′00″ E a distance of 390.0 feet to a point, this point being the point or place of beginning of the tract to be released from the described condition; thence, N 13 degrees 15′00″ W a distance of 701.15 feet to a point; thence, S 73 degrees 10′00″ W a distance of 647.09 feet to a point; thence, N 17 degrees 13′50″ W a distance of 304.91 feet to a point; thence, N 61 degrees 23′03″ E a distance of 2452.76 feet to a point; thence, S 06 degrees 09′26″ E a distance of 275.29 feet to a point; thence, S 07 degrees 17′36″ E a distance of 442.26 feet to a point; thence, S 00 degree 30′41″ E a distance of 183.67 feet to a point; thence, S 12 degrees 11′06″ E a distance of 160.31 feet to a point; thence, S 05 degrees 13′46″ E a distance of 390.62 feet to a point; thence, S 34 degrees 53′42″ W a distance of 201.01 feet to a point; thence, S 75 degrees 01′09″ W a distance of 1371.18 feet to a point; this point being the point or place of beginning of the tract.

For a more complete description of the tract, reference is hereby made to that certain plat prepared on August 4, 1985, by Harry Strickland, Brantley County Surveyor, entitled "Survey

for Brantley County" which plat is on file with the Georgia State Properties Commission.

(d) Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1011), shall not apply to the release provided for in subsection (a) of this section.

(e) The conveyance made pursuant to subsection (a) of this section shall reserve to the United States all gas, oil, coal and other mineral deposits as may be found in the lands conveyed by this section.

[*Total, Forest Service, $171,997,000.*]

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(DISAPPROVAL OF DEFERRAL)

Of the funds which remain deferred as of the date of enactment of this Act pursuant to deferral D86-6A relating to the Department of Energy, "Fossil energy research and development", the Congress disapproves the deferral of all but $2,607,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

$18,140,000 (deferral disapproval)

ENERGY CONSERVATION

(DISAPPROVAL OF DEFERRAL)

Of the funds which remain deferred as of the date of enactment of this Act pursuant to deferral D86-9A relating to the Department of Energy, "Energy conservation", the Congress disapproves the deferral of all but $6,556,000. The disapproval shall be effective upon enactment into law of this Act and the amount of the deferral disapproved herein shall be made available for obligation.

14,826,000 (deferral disapproval)

STRATEGIC PETROLEUM RESERVE

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D86-37 relating to the Department of Energy, "Strategic petroleum reserve", as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

41,182,000 (deferral disapproval)

SPR PETROLEUM ACCOUNT

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves deferral D86-10A relating to the Department of Energy, "SPR petroleum account", as set forth in the message of February 5, 1986, which was transmitted to the Congress by the President. The disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

577,534,000 (deferral disapproval)

ALTERNATIVE FUELS PRODUCTION

For the repayment of principal and interest on notes issued to the Secretary of the Treasury by the Secretary of Energy pursuant to the provisions of section 19(n)(4) of the Federal Non-Nuclear Energy

Research and Development Act, Public Law 93-577, as amended by Public Law 95-238, $1,020,360,322, together with such additional sums as may be necessary, for the payment of interest which shall have accrued to the date final principal payment is made.

$1,020,360,322
−1,020,360,322
(applied to debt reduction)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", $13,500,000: *Provided,* That $1,530,000 shall not become available for obligation until September 30, 1986: *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Educational Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987.

13,500,000

INDIAN HEALTH FACILITIES

(DEFERRAL)

Of the funds previously appropriated under this head, $11,665,000 shall not become available for obligation until October 1, 1986.

−11,665,000
(effect of new deferral)

SMITHSONIAN INSTITUTION

National Gallery of Art

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $36,000, to be derived by transfer from "Repair, restoration and renovation of buildings, National Gallery of Art".

36,000
(by transfer)

[*Total, Chapter VII:*	
[*New budget (obligational) authority (net)*	*$420,414,000.*]
[*Appropriations*	*1,469,694,322.*]
[*Appropriation applied to debt reduction*	*−1,020,360,322.*]
[*Rescissions*	*−28,920,000.*]
[*By transfer*	*36,000.*]
[*Deferral disapproval*	*654,835,000.*]
[*Effect of new deferral*	*−17,165,000.*]

CHAPTER VIII

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For an additional amount for the Health Resources and Services Administration to carry out the provisions of section 1910 of the Public Health Service Act (pertaining to Emergency Medical Services for Children), $2,000,000 to remain available until September 30, 1987.

2,000,000

Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall immediately renew all designated agreements and contracts in accordance with title 15 of the Public Health Service Act for such periods after September 30, 1986 as each Agency's budget, including unobligated Federal funds available for carryover, permits.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For an additional amount for "National Cancer Institute", for grants for National Cancer Research and Demonstration Centers as authorized by section 414 of Public Law 99-158, $6,000,000. $6,000,000

ADMINISTRATIVE PROVISION

Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson Clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with schedule options and benefits authorized for the Veterans Administration pursuant to 38 U.S.C. 4107.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

SEC. 1. (a) The Administrator of General Services shall assign the property described in subsection (e) to the Secretary of Health and Human Services for transfer of such property in accordance with this section to the District of Columbia for use as a shelter for homeless individuals in the District of Columbia.

(b) Immediately after the assignment of such property pursuant to subsection (a), the Secretary of Health and Human Services shall transfer the title to such property without cost to the District of Columbia for use as a shelter for homeless individuals.

(c) The deed of conveyance for the property described in subsection (e) shall provide that, if the District of Columbia sells, leases, or otherwise transfers such property to any other person or agency, a fraction of the proceeds of such sale, lease, or transfer (as determined under subsection (d)) may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia and the remainder of such proceeds shall be paid to the Secretary of the Treasury and deposited as miscellaneous receipts of the United States.

Any sale, lease, or other transfer pursuant to this subsection shall be made after public advertising for bids or by other means designed to secure full and open competition.

(d) The fraction of such proceeds which may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia shall be determined by dividing—

(1) the number of months that such property is used as a shelter for homeless individuals in the District of Columbia pursuant to this section prior to such sale, lease, or transfer; by

(2) 120,

except that such fraction shall not be greater than one.

(e) The property to which this section applies is the property located at 425 Second Street, Northwest, in the District of Columbia, more fully described as follows:

All that parcel situated in the Northwest quadrant of the City of Washington, District of Columbia, and being a portion of District of Columbia Square Number 571, containing in their entirety former lots numbered 9 through 18, inclusive, and 22 through 26, inclusive, as recorded in Liber B, Folio 160 of the Records of the Office of the

Surveyor for the District of Columbia, and lots 45 through 51 inclusive, as recorded in Liber 19, Folio 118 of the Records of the Office of the Surveryor for the District of Columbia; such land now known for purposes of assessment as Lot 820, and containing 1.16 acres of land, more or less; and more particularly described in a deed between the Reconstruction Finance Corporation and the United States of America, dated July 30, 1947, and recorded in Liber 8761, Folio 79 of the Land Records of the District of Columbia.

SEC. 2. For making a grant to the District of Columbia upon the completion of the conveyance to the District of Columbia of the property located at 425 Second Street, Northwest, in the District of Columbia, in accordance with section 1 and upon the submission of a request to the Office of Community Services, Department of Health and Human Services, by the District of Columbia, $1,500,000 for the repair and renovation of such property for use as a shelter for the homeless.

$1,500,000

[*Total, Department of Health and Human Services, $9,500,000.*]

DEPARTMENT OF EDUCATION

IMPACT AID

For an additional amount, for "Impact Aid", $20,000,000, which shall remain available until expended, for making payments under section 7 of title I of the Act of September 30, 1950, as amended: *Provided,* That payments made under section 2 of said Act for the fiscal years 1978 through 1983, which were based on entitlements that included State-levied real property taxes, shall stand: *Provided further,* That in a State where a portion of an existing local real property tax levy had been assumed and levied by the State as a real property tax, that these State taxes shall be allowed in the computation of entitlements under section 2 of said Act for the fiscal years 1984 and 1985: *Provided further,* That recovery of any overpayments to any school district of less than $5,000 arising out of payments made under said Act for fiscal year 1978 shall be obtained only from any future year payments to such school district under said Act.

20,000,000

None of the funds appropriated in this Act, or in any other appropriations Act for fiscal year 1986, may be used to implement any regulations promulgated by the Secretary of Education after March 31, 1986, to carry out the provisions of the Act of September 30, 1950, relating to impact aid, if such regulations are to take effect during the fiscal year 1986.

The first sentence of section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "increase the amount" and inserting in lieu thereof the following: "increase the actual payment to be made pursuant to the amount".

Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentences: "In carrying out the provisions of this subparagraph, the Secretary shall count the actual number of children with respect to such agency for each fiscal year under subsection (b) without regard to the provisions of subparagraph (E) of this paragraph.".

The Secretary shall, in making any audit of payments made under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) accept the manner of counting children attending kindergarten for the purpose of that Act if the manner of counting such children is in accordance with State law.

Effective on October 1, 1980, section 3(d)(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating subparagraph (C) as subparagraph (D), and by adding after subparagraph (B) the following new subparagraph:

"(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to State law where the remainder of such real property tax is transferred to the State.".

Notwithstanding the notice relating to applications for pinpoint disaster assistance (43 Federal Register 57194 (1978)) or any other provision of Federal law or regulation, the Secretary of Education shall accept an application from Preston County Board of Education, West Virginia, under section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) filed after the date of enactment of this Act.

Notwithstanding any other provision of law, the Hays-Lodge Pole School District Number 50 of Hays, Montana, is relieved of all liability to repay to the United States the sum of $181,557.13, together with any interest on such sum, representing interest earned on investments which were made from payments made under the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) for a construction project initiated in 1975, and which were made after consulting with Federal officials. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

From the amounts appropriated to carry out the Rehabilitation Act of 1973, $27,945,000 shall be made available for special demonstration projects for the severely disabled under section 311: *Provided*, That $8,613,000 shall be used for supported employment demonstrations.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for subpart 1 of part A of title IV of the Higher Education Act, as amended, $146,000,000, to remain available until September 30, 1987. $146,000,000

[*Total, Department of Education, $166,000,000.*]

RELATED AGENCIES

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

Provided prior approval is obtained from the Committees on Appropriations, an additional amount not to exceed $1,241,000 for "Operation and Maintenance", may be transferred from the Soldiers' and Airmen's "Capital Outlay" fund. *1,241,000 (by transfer)*

DEPARTMENT OF LABOR

ADMINISTRATIVE PROVISION

No Job Corps Center operating under part B of title IV of the Job Training Partnership Act shall be closed prior to July 1, 1987.

[*Total, Chapter VIII:*

[*New budget (obligational) authority*	*$175,500,000.*]
[*By transfer*	*1,241,000.*]

CHAPTER IX

LEGISLATIVE BRANCH

SENATE

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of the Sergeant at Arms and Doorkeeper", $500,000. $500,000

ADMINISTRATIVE PROVISIONS

SECTION 1. (a) Effective October 1, 1985, the allowance for administrative and clerical assistance of each Senator from the State of Alabama is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants.

(b) Effective October 1, 1985, the allowance for administrative and clerical assistance of each Senator from the State of Florida is increased to that allowed Senators from States having a population of eleven million but less than twelve million, the population of said State having exceeded eleven million inhabitants.

SEC. 2. (a) Subsection (a) of section 110 of Public Law 97-12 (2 U.S.C. 58b(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) striking out the last three sentences of such subsection and inserting in lieu thereof the following:

"(2)(A) Each Senator, at his election, may, during any fiscal year (but not earlier than July 1 thereof) transfer from such Senator's clerk hire allowance to his Official Office Expense Account such amounts as the Senator shall determine, but not in excess of the balance as of the end of the month which precedes the month in which the transfer is made. Any amount so transferred to a Senator's Official Office Expense Account shall be available for expenses incurred during the calendar year in which occurred the close of the fiscal year in which the transfer is made. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office in writing, not later than January 15 of the calendar year immediately following the calendar year in which occurs the close of the fiscal year in which the transfer is to be made, and such transfer shall be made on such date (but not earlier than July 1, nor later than December 31, of the calendar year in which the close of such fiscal year occurs) as may be specified by the Senator.

"(B) Each Senator, at his election, may, during any calendar year (but not earlier than July 1 thereof) transfer from such Senator's Official Office Expense Account to his clerk hire allowance such amounts as the Senator shall determine, but not in excess of the balance as of the end of the month which precedes the month in which the transfer is made. Any amount so transferred to a Senator's clerk hire allowance during any calendar year shall be available for expenses incurred during the fiscal year which ends during the calendar year in which the transfer is made. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office in writing, not later than September 30 of the calendar year in which the transfer is to be made, and such transfer shall be made on such date (but not earlier than July 1 of such calendar year) as may be specified by the Senator.".

(b) Subsection (b) of section 110 of Public Law 97-12 is amended to read as follows:

"(b) Transfer of funds by a Senator under subsection (a) of this section shall be made between (1) the allowance of such Senator in the account (which is within the appropriation account under the headings 'SENATE' and 'Salaries, Officers and Employees') for 'Administrative, Clerical, and Legislative Assistance to Senators', and (2) such Senator's Senatorial Official Office Expense Account within the appropriation account for 'Miscellaneous Items' under the heading 'SENATE'.".

(c) The amendments made by subsection (a) shall be effective in the case of elections made with respect to transfers of funds to be available for expenses incurred after December 31, 1984.

SEC. 3. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1986, at his election, transfer not more than $30,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

HOUSE OF REPRESENTATIVES

SALARIES, OFFICERS AND EMPLOYEES

For an additional amount for "Office of the Sergeant at Arms", $500,000. $500,000

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for "Standing committees, special and select", $350,000. 350,000

[*Total, House of Representatives, $850,000.*]

JOINT ITEMS

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For an additional amount for "Joint Committee on Taxation", $912,000. 912,000

CAPITOL POLICE

CAPITOL POLICE BOARD

For an additional amount for the "Capitol Police Board", $13,000,000, to remain available until expended, to implement an improved security plan for the United States Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation, and the Committee on House Administration: *Provided,* That upon approval of the House and 13,000,000

Senate Committees on Appropriations, such Board is authorized to transfer to the Architect of the Capitol so much of such funds as may be necessary to enable the Architect of the Capitol to carry out appropriate projects to implement such plan, and the Architect of the Capitol is authorized to obligate and expend the funds so transferred to him to carry out contracts entered into without regard to section 3709 of the Revised Statutes, as amended: *Provided further,* That before any such transfer of funds to the Architect of the Capitol takes place, the House and Senate Committees on Appropriations shall review and approve detailed documentation describing the scope, cost and construction schedule of the work to be accomplished by the transfer of funds.

[*Total, Joint Items, $13,912,000.*]

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For an additional amount for "Office of the Architect of the Capitol, Salaries", $250,000, to remain available until expended: *Provided,* That these funds shall be transferred to the appropriation "Capitol Grounds", and the Architect of the Capitol is authorized to obligate and expend funds so transferred only for the detailed design and cost estimates associated with the construction aspects of the congressional joint leadership proposal to improve security of the Capitol and the House and Senate office buildings. $250,000

CAPITOL BUILDINGS

For an additional amount for "Capitol Buildings", $8,000,000, to remain available until expended: *Provided,* That this additional amount shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended. 8,000,000

CAPITOL POWER PLANT

For an additional amount for "Capitol Power Plant", $1,583,000: *Provided,* That not to exceed $2,150,000 of the funds credited or to be reimbursed to this appropriation pursuant to Public Law 99-151 shall be available for obligation during fiscal year 1986. 1,583,000

[*Total, Architect of the Capitol, $9,833,000.*]

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for salaries and expenses under the headings "OTHER AGENCIES" and "LIBRARY OF CONGRESS", $867,000: *Provided,* That of such amount, $500,000 shall remain available until expended for the acquisition of books, periodicals, newspapers, and all other materials (including subscriptions for bibliographic services for the Library). 867,000

[*Total, Chapter IX, new budget (obligational) authority, $25,962,000.*]

CHAPTER X

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Coast Guard, Operating expenses", $35,500,000. In addition, $10,400,000 shall be transferred from "Coast Guard, Acquisition, construction and improvements" pursuant to section 5(a) of Public Law 98-557.

$35,500,000

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Out of available funds, the Coast Guard shall make available not more than $750,000 for maintenance, sealing and preservation of lighthouses in the Commonwealth of Massachusetts.

([1])

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Operations", $84,250,000, of which $2,000,000 shall be derived by transfer from "Coast Guard, Retired pay", and $2,250,000 shall be derived by transfer from "Coast Guard, Research, development, test, and evaluation": *Provided,* That, if by July 15, 1986, the Secretary of Transportation and the appropriate governmental authorities of Dade County, Florida, have not reached agreement on the execution of a full funding contract for the project identified in section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, the memorandum of understanding submitted by the Metro-Dade Transportation Administration to the Urban Mass Transportation Administration on June 6, 1986, shall be deemed approved by the Secretary and shall be binding on the Department of Transportation and Metropolitan Dade County upon acceptance by the appropriate Dade County governmental authorities: *Provided further,* That such memorandum of understanding shall be deemed approved by the Secretary notwithstanding 42 U.S.C., sections 4321 through 4335, inclusive, and applicable regulations: *Provided further,* That, at a minimum, the air traffic control on-board employment level shall be 14,480 by September 30, 1986.

80,000,000
4,250,000
(by transfer)

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Research, engineering and development (Airport and Airway Trust Fund)", $72,220,000, of which $17,000,000 shall be derived by transfer from the unobligated balance of "Facilities and equipment (Airport and Airway Trust Fund)" and to remain available until September 30, 1989, and of which $55,220,000 shall be derived by transfer from "Facilities and equipment (Airport and Airway Trust Fund)" and to remain available until September 30, 1990.

72,220,000
(by transfer)

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[1] In addition, $21,250,000 available by transfer from Department of Defense—Military (see p. 14, this volume).

Federal Highway Administration

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

The Department of Transportation is authorized to expend $5,000,000 from the emergency relief fund established by section 125 of title 23, United States Code, for the purposes of preventing the continuing flooding of Interstate 80 by the rising waters of the Great Salt Lake.

Federal Railroad Administration

REDEEMABLE PREFERENCE SHARES

Notwithstanding any other provision of law, the Secretary of Transportation shall, until September 30, 1988, issue and sell, and the Secretary of the Treasury until such date shall purchase, Fund anticipation notes, and the Secretary of Transportation is hereby authorized to expend for uses authorized for the Railroad Rehabilitation and Improvement Fund proceeds from the sale of such Fund anticipation notes and any other moneys deposited in the Fund after September 30, 1985, pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, in amounts not to exceed $33,500,000.

Urban Mass Transportation Administration

FORMULA GRANTS

Notwithstanding any other provision of law, urbanized areas which became urbanized areas for the first time under the 1980 census shall be entitled to utilize, from funds apportioned to them under section 9 of the Urban Mass Transportation Assistance Act, as amended, the same amount of funds for operating assistance in fiscal year 1986 as was available to them in fiscal year 1985.

[*Total, Department of Transportation, $115,500,000.*]

RELATED AGENCY

Panama Canal Commission

OPERATING EXPENSES

For an additional amount for "Panama Canal Commission, Operating expenses", $18,300,000, of which $17,181,000 may be available either for operating expenses or for vessel accident claims as authorized by Public Law 99-209, and $1,119,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977. $18,300,000

[*Total, Chapter X:*

[*New budget (obligational) authority*	*$133,800,000.*]
[*By transfer*	*76,470,000.*]

CHAPTER XI

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Of the total amount previously appropriated and made available under this head in Public Law 99-190, $6,000,000 shall be obligated and remain available until expended for dormitory construction.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for salaries and expenses, $500,000, for the enforcement and administration of 26 U.S.C. 5121. $500,000

INTERNAL REVENUE SERVICE

PROCESSING TAX RETURNS

For an additional amount for "Processing tax returns", $194,564,000. 194,564,000

EXAMINATIONS AND APPEALS

For an additional amount for "Examinations and appeals", $68,706,000. 68,706,000

INVESTIGATION, COLLECTION AND TAXPAYER SERVICE

For an additional amount for "Investigation, collection and taxpayer service", $76,730,000. 76,730,000

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Notwithstanding any other provision of this title, any appropriations made available to the Internal Revenue Service for the current fiscal year may be transferred to any other Internal Revenue Service appropriation to the extent necessary for increased pay costs authorized by law.

SEC. 2. Not to exceed 5 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year may be transferred to any other Internal Revenue Service appropriation.

SEC. 3. The Internal Revenue Service shall provide on a nonreimbursable basis, all necessary data processing support to the Bureau of Alcohol, Tobacco and Firearms to assist in the implementation of a new Special Occupational Tax Compliance system at the Bureau.

[*Total, Internal Revenue Service, $340,000,000.*]

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $30,831,000: *Provided,* That no funds appropriated by this or any other Act may be used to implement single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1986: *Provided further,* That none of the funds made available by this or any other Act shall be available for administrative expenses to reduce the personnel level of the Customs Service during fiscal year 1986 below an average of 14,041 full time equivalent positions. 30,831,000

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $3,225,000. 3,225,000

[*Total, United States Customs Service, $34,056,000.*]

[*Total, Department of the Treasury, $374,556,000.*]

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATION ON AVAILABILITY OF REVENUE)

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1986, $3,500,000 shall be made available until expended for the construction and acquisition of facilities as follows:

$3,500,000 (limitation on availability of revenue)

New Construction:
  South Carolina:
    Charleston, Post Office and Courthouse Annex, $3,500,000:

Provided, That for additional expenses necessary to carry out the purposes of the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $3,500,000 to be deposited into said fund: *Provided further*, That any revenues, collections, and any other sums accruing to this fund in excess of $2,415,501,000, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

The annual limitation of $5,200,000 through September 30, 1989 under this heading in the Supplemental Appropriations Act, 1985, Public Law 99-88, for expenses of transportation audit contracts and contract administration is increased to $7,600,000 for fiscal year 1986.

7,600,000 (increase in limitation)

ADMINISTRATIVE PROVISION

The Administrator of General Services is authorized and directed to convey, for the sum of one dollar, to the City of Santa Fe, New Mexico, all right, title, and interest of the United States in the parcel of surplus property known as the Bruns Hospital Site more specifically being the property designated with GSA Control Number for Disposal Purposes 7-G-NM-403, parcels F and H, consisting of approximately 4.37 acres, such property being a portion of the same property which the City of Santa Fe conveyed to the Department of the Army in 1944 for the amount of one dollar.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

SALARIES AND EXPENSES

For necessary expenses of the Federal Retirement Thrift Investment Board, $250,000. 250,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

Pursuant to section 301 of title III of Public Law 99-251, the Federal Employees Benefits Improvement Act of 1986, not to exceed $1,000 shall be for reception and representation expenses.

TRANSFER OF FUNDS

For necessary expenses of the Office of Personnel Management in implementing the provisions of the Federal Employees' Retirement Systems Act of 1986, as authorized by section 207(j) of such Act, not to exceed $2,000,000, to be derived by transfer from the Civil Service Retirement and Disability Fund, to be in addition to funds previously made available to the Office of Personnel Management from such Fund.

[*Total, Chapter XI:*

[*New budget (obligational) authority*	*$374,806,000.*]
[*Limitation on availability of revenue*	*3,500,000.*]
[*Increase in limitation*	*7,600,000.*]

TITLE II

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) may be expended in violation of the provisions of H. Con. Res. 276 of the Ninety-ninth Congress.

SEC. 202. For purposes of implementing the President's February 1, 1986 order under Public Law 99-177, the percentage reduction required for payments made pursuant to 7 U.S.C. 1012; 43 U.S.C. 1181f-1; 42 U.S.C. 6508; and Public Law 96-586, 94 Stat. 3381, 2(d) (2) and (3) shall be the same percentage reduction as required for all nondefense accounts.

SEC. 203. None of the funds in this Act, or any other appropriations Act for fiscal year 1986, may be used to implement changes to OMB Circular A-21 made subsequent to February 11, 1986: *Provided,* That this provision shall expire 60 days after the date of enactment of this Act.

SEC. 204. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with organization participation in the 1986 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in the 1986 campaign.

SEC. 205. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 206. Subsections (a)(4) and (g)(1) of section 1886 of the Social Security Act (42 U.S.C. 1395ww) are amended by striking "1986" each place it appears and inserting "1987".

SEC. 207. Notwithstanding section 514 of Public Law 99-178, amounts appropriated by that Act for Federal financial assistance to the Trust Territory of the Pacific Islands shall be available, as would have been available had the Compact of Free Association Act (Public Law 99-239) not been enacted, until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239). Thereafter, except insofar as the Compact of Free Association Act otherwise provides, such amounts shall be available only for the Republic of Palau, but only in amounts that such Republic would have received had the Compact of Free Association Act of 1985 not been enacted.

SEC. 208. No funds appropriated or made available under this or any other Act shall be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to transfer out of Federal ownership, management or control in whole or in part the facilities and functions of the Federal power marketing administrations located within the contiguous 48 States, and the Tennessee Valley Authority, until such activities have been specifically authorized and in accordance with terms and conditions established by an Act of Congress hereafter enacted: *Provided,* That this provision shall not apply to the authority granted under section 2(e) of the Bonneville Project Act of 1937; or to the authority of the Tennessee Valley Authority pursuant to any law under which it may transfer facilities or functions in the normal course of business in carrying out the purposes of the Tennessee Valley Authority Act of 1933, as amended; or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1949, as amended, and the Surplus Property Act of 1944 to sell or otherwise dispose of surplus property.

Sec. 209. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this section shall not prohibit (1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or (2) research activities intended primarily to benefit American producers.

Sec. 210. Notwithstanding any other provision of law—

(1) no reduction in the amount of funds for which the City of New York, New York, is eligible under any Federal law, or to which the City of New York, New York, is entitled under any Federal law, may be made, and

(2) no other penalty may be imposed by the Federal Government

by reason of the application of New York City Local Law 19 of 1985 to any contract entered into by the City of New York before October 1, 1986, which is funded in whole, or in part, with funds provided by the Federal Government.

This Act may be cited as the "Urgent Supplemental Appropriations Act, 1986".

Approved July 2, 1986.

LEGISLATIVE HISTORY—H.R. 4515

HOUSE REPORTS: No. 99-510 (Comm. on Appropriations) and No. 99-649 (Comm. of Conference).
SENATE REPORTS: No. 99-301 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 8, considered and passed House.
June 5, 6, considered and passed Senate, amended.
June 24, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments, and insisted on disagreement to certain amendments.
June 26, Senate agreed to conference report, receded and concurred in certain House amendments, in another with an amendment; House disagreed to Senate amendment, Senate receded from amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
July 2, Presidential statement.

Grand total, titles I and II, Urgent Supplemental Appropriations Act, 1986:

New budget (obligational) authority (net)		−$4,243,880,000
Appropriations, 1986	$9,672,404,322	
Appropriations applied to debt reduction	−1,020,360,322	
Rescissions	−6,953,924,000	
Appropriations, 1987	100,000,000	
Rescission	−6,042,000,000	

Deferral disapproval	*($4,882,344,000)*
Effect of new deferral	*(−17,165,000)*
By transfer	*(1,105,340,000)*
Limitation on administrative expenses	*(3,429,000)*
Limitation on guaranteed loans	*(106,580,000,000)*
Limitation on annual contract authority, indefinite	*(−51,518,000)*
Limitation on availability of revenue	*(3,500,000)*
Increase in limitation	*(7,600,000)*
Loan authorization	*(−2,000,000)*

NOTE.—The following tabulation is a classification by departments and establishments of new budget (obligational) authority made or rescinded in the foregoing act:

Chapter	Department or establishment	Amount
	TITLE I—GENERAL SUPPLEMENTALS	
I	Agriculture, Rural Development, and Related Agencies:	
	New budget (obligational) authority	$5,387,417,000
	By transfer	*(96,648,00)*
	Loan authorization	*(−2,000,000)*
	Deferral disapproval	*(700,000,000)*
II	Commerce, Justice, and State, the Judiciary, and Related Agencies:	
	New budget (obligational) authority (net)	766,672,000
	Appropriations	(776,672,000)
	Rescission	(−10,000,000)
	By transfer	*(5,900,000)*
	Deferral disapproval	*(41,738,000)*
III	Department of Defense:	
	New budget (obligational) authority (net)	−114,500,000
	Appropriations	(108,000,000)
	Rescissions	(−222,500,000)
	By transfer	*(662,286,000)*
IV	Energy and Water Development:	
	New budget (obligational) authority	25,000,000
	By transfer	*(65,000,000)*
	Deferral disapproval	*(23,156,000)*
V	Foreign Assistance and Related Programs:	
	New budget (obligational) authority	150,000,000
	By transfer	*(52,739,000)*
VI	Housing and Urban Development—Independent Agencies:	
	New budget (obligational) authority (net)	−11,588,951,000
	Appropriations, fiscal year 1986	(1,045,553,000)
	Rescissions	(−6,692,504,000)
	Appropriations, fiscal year 1987	(100,000,000)
	Rescission	(−6,042,000,000)
	By transfer	*(145,020,000)*
	Limitation on administrative expenses	*(3,429,000)*
	Limitation on guaranteed loans	*(106,580,000,000)*
	Limitation on annual contract authority, indefinite	*(−51,518,000)*
	Deferral disapproval	*(3,462,615,000)*
VII	Interior and Related Agencies:	
	New budget (obligational) authority (net)	420,414,000
	Appropriations	(1,469,694,322)
	Appropriations applied to debt reduction	(−1,020,360,322)
	Rescissions	(−28,920,000)
	By transfer	*(36,000)*
	Deferral disapproval	*(654,835,000)*
	Effect of new deferral	*(−17,165,000)*
VIII	Labor, Health and Human Services, and Education, and Related Agencies:	
	New budget (obligational) authority	175,500,000
	By transfer	*(1,241,000)*
IX	Legislative Branch:	
	New budget (obligational) authority	25,962,000
X	Transportation and Related Agencies:	
	New budget (obligational) authority	133,800,000
	By transfer	*(76,470,000)*
XI	Treasury, Postal Service, and General Government:	
	New budget (obligational) authority	374,806,000
	Limitation on availability of revenue	*(3,500,000)*
	Increase in limitation	*(7,600,000)*

Chapter	Department or establishment	Amount
	TITLE II—GENERAL PROVISIONS	
	RECAPITULATION	
	Grand total, titles I and II:	
	New budget (obligational) authority (net)	−$4,243,880,000
	Appropriations, 1986	(9,672,404,322)
	Appropriation applied to debt reduction	(−1,020,360,322)
	Rescissions	(−6,953,924,000)
	Appropriations, 1987	(100,000,000)
	Rescission	(−6,042,000,000)
	Deferral disapproval	*(4,882,344,000)*
	Effect of new deferral	*(−17,165,000)*
	By transfer	*(1,105,340,000)*
	Limitation on administrative expenses	*(3,429,000)*
	Limitation on guaranteed loans	*(106,580,000,000)*
	Limitation on annual contract authority, indefinite	*(−51,518,000)*
	Limitation on availability of revenue	*(3,500,000)*
	Increase in limitation	*(7,600,000)*
	Loan authorization	*(−2,000,000)*

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATION BILL, 1987

99th Congress, H.R. 5177

[NOTE.—The Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987 (H.R. 5177) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 16, 1986, and passed the House on July 24, 1986. The Senate reported the bill on September 11, 1986, and took no further action. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(a) of Public Law 99-500, approved October 18, 1986, and Sec. 101(a) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987 (see pp. 189-226 for text of relevant part of Public Law 99-591, and pp. 3093-3099 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5177

HOUSE REPORTS: No. 99-686 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-438 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
- July 16, reported in the House.
- July 24, considered and passed House.
- Sept. 11, reported in the Senate.
- Oct. 18, included in contining resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(a) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand Total:	
Definite appropriations	[1]$45,727,595,000
Subject to budget request	(3,775,281,000)
By transfer	*(4,243,594,000)*
Loan authorization	*(9,064,904,000)*
Limitation on obligations	*(451,768,000)*
Limitation on guaranteed loans	*(5,500,000,000)*
Total, new budget (obligational) authority, Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987	[1, 2]$45,727,595,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(a) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Department of Agriculture for such fiscal year:

Permanent appropriations:	
Federal funds (pp. 3018-3020)	$6,722,096,000
Trust funds (pp. 3034-3035)	317,727,000

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[1] Includes appropriation of $3,775,281,000 available subject to submission of budget request, which was not submitted at the time this bill was approved. The estimate was allegedly submitted in the President's fiscal year 1988 budget (H. Doc. 100-3) by increasing the amount of the new budget (obligational) authority in the fiscal year 1987 column. The usual supplemental requests were not received by the Congress.

[2] The Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987 (H.R. 5177) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Appropriations in legislative acts:		
Commodity Credit Corporation Fund, Federal funds (P.L. 99-253) (p. 3164)	$50,000,000	
Commodity Credit Corporation Fund, Federal funds (P.L. 99-260) (p. 3164)	−115,000,000	
Commodity Credit Corporation Fund, Federal funds (P.L. 99-272) (p. 3164)	−70,000,000	
Rural development insurance fund, FFB loan asset purchases, Federal funds (P.L. 99-509) (p. 3165)	830,000,000	
Rural housing insurance fund, FFB loan asset purchases, Federal funds (P.L. 99-509) (p. 3164)	809,000,000	
Department of the Interior Appropriation Bill, 1987: Forest Service, (pp. 439-443)	[1] 1,665,845,000	
Subtotal, additions (net)		$10,209,668,000
Deduct amounts transferred to Department of Health and Human Services, and General Government totals:		
Department of Health and Human Services: Food and Drug Administration (pp. 214-215)	$438,309,000	
General Government: Commodity Futures Trading Commission (p. 215)	29,761,000	
Subtotal, deductions		−468,070,000
Grand total, Department of Agriculture (net)		[2,3] 55,469,193,000

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[1] Includes $4,695,000 in "indefinite" appropriations.

[2] Includes appropriation of $3,775,281,000 available subject to submission of budget request, which was not submitted at the time this bill was approved. The estimate was allegedly submitted in the President's fiscal year 1988 budget (H. Doc. 100-3) by increasing the amount of the new budget (obligational) authority in the fiscal year 1987 column. The usual supplemental requests were not received by the Congress.

[3] The Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987 (H.R. 5177) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 47, this volume).

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5161

[NOTE.—The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987 (H.R. 5161) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 15, 1986. The bill was reported with amendments by the Committee on Appropriations of the Senate on September 3, 1986, but no further action was taken. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(b) of Public Law 99-500, approved October 18, 1986, and Sec. 101(b) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 226-267 for text of Sec. 101(b) of Public Law 99-591, and pp. 3100-3106 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5161

HOUSE REPORTS: No. 99-669 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-425 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
- July 15, reported in the House.
- July 17, considered and passed House.
- Sept. 3, reported in the Senate.
- Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(b) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:		
New budget (obligational) authority (net)	$12,372,985,000	
Appropriations, fiscal year 1987	(12,359,461,000)	
Definite	(12,339,461,000)	
Indefinite	(20,000,000)	
Rescissions	(−9,676,000)	
Advance appropriation, fiscal year 1988	(13,200,000)	
Advance appropriation, fiscal year 1989	(10,000,000)	
By transfer	*(155,773,000)*	
Limitation on guaranteed loans	*(150,000,000)*	
Limitation on obligations	*(88,365,000)*	
Appropriations to liquidate contract authority	*(320,000,000)*	
Foreign currency availability	*(1,200,000)*	
Total, new budget (obligational) authority, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987 (net)		[1] $12,372,985,000

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[1] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987 (H.R. 5161) was not approved by the Congress. Funding for programs and activities normally included in this bill provided through a continuing resolution (see "Note" above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided in the foregoing annual appropriation act, the following additional amounts are available for the Departments of Commerce, Justice, and State, and the Judiciary for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 3020 and 3026)	$344,445,000	
Trust funds (pp. 3033, 3035 and 3040)	843,024,000	
Appropriations in legislative acts:		
Crime victims fund, Federal funds (P.L. 99-401) (p. 3163)	10,000,000	
Judicial survivors' annuities fund, trust funds (P.L. 99-336) (p. 3165)	2,000,000	
Payment of Royalties—Technology Transfer Act, Federal Funds (P.L. 99-502) (p. 3164)	2,000,000	
Foreign Assistance and Related Programs Appropriations Bill, 1987:		
Anti-terrorism assistance (p. 398)	9,840,000	
International narcotics control (p. 398)	65,445,000	
Migration and refugee assistance (p. 398)	346,856,000	
United States Emergency Refugee and Migration Assistance Fund (p. 398)	14,000,000	
Fourth Further Continuing Appropriations, 1987 (P.L. 99-591):		
Economic Development Administration (p. 513)	9,500,000	
International narcotics control (p. 525)	53,000,000	
The Judiciary (p. 524)	37,500,000	
Department of Justice (pp. 523-524)	539,500,000	
Subtotal, additions		$2,277,110,000

Deduct advance appropriations for fiscal years 1988 and 1989 and amounts for independent agencies transferred to the Department of Transportation and General Government totals:

Advance appropriations for fiscal year 1988:		
James Madison Memorial Fellowship (p. 266)	$10,000,000	
Constitutional Law Resource Centers (p. 267)	3,200,000	
Advance appropriations for fiscal year 1989: James Madison Memorial Fellowship (p. 266)	10,000,000	
Department of Transportation:		
Maritime Administration (pp. 250-251	67,500,000	
General Government:		
Arms Control and Disarmament Agency (p. 251)	29,000,000	
Board for International Broadcasting (p. 251)	140,000,000	
Christopher Columbus Quincentenary Jubilee Commission (p. 251)	220,000	
Commission on the Bicentennial of the United States Constitution (p. 251)	13,200,000	
Commission on Civil Rights (p. 252)	7,500,000	
Commission on Security and Cooperation in Europe (p. 252)	526,000	
Equal Employment Opportunity Commission (p. 252)	165,000,000	
Federal Communications Commission (pp. 252-253)	95,000,000	
Federal Maritime Commission (p. 253)	11,600,000	
Federal Trade Commission (pp. 253-254)	65,000,000	
International Trade Commission (p. 254)	33,900,000	
Japan-United States Friendship Commission (p. 254)	1,408,000	
Legal Services Corporation (pp. 254-255)	305,500,000	
Marine Mammal Commission (p. 255)	900,000	
Office of the United States Trade Representative (p. 255)	13,300,000	
Securities and Exchange Commission (p. 255)	110,500,000	
Small Business Administration (p. 256)	481,742,000	
State Justic Institute (p. 257)	7,200,000	
United States Information Agency (pp. 257-258)	827,250,000	
United States Sentencing Commission (p. 249)	5,800,000	
Subtotal, deductions		−2,405,246,000
Grand total, Departments of Commerce, Justice, and State, and the Judiciary (net)		[1] 12,244,849,000

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[1] The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987 (H.R. 5161) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 49, this volume).

DEPARTMENT OF DEFENSE APPROPRIATION BILL, 1987

99th Congress, H.R. 5438

[NOTE.—The Department of Defense Appropriation Bill, 1987 (H.R. 5438), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on August 14, 1986. S. 2827 was reported by the Committee on Appropriations of the Senate on September 17, 1986. The bill was not acted on by the full Senate nor acted on by the House of Representatives. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(c) of Public Law 99-500, approved October 18, 1986, and Sec. 101(c) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 268-357 for text of Sec. 101(c) of Public Law 99-591, and pp. 3107-3110 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5438

HOUSE REPORTS: No. 99-793 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-446 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 14, reported in the House.
Sept. 17, S. 2827 reported in the Senate.
Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(c) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:		
New budget (obligational) authority (net)	$268,675,129,000	
Appropriations, definite	(273,992,006,000)	
Rescissions	(−5,323,877,000)	
Reappropriation	(7,000,000)	
Transfer authority	*(1,100,000,000)*	
Total, new budget (obligational) authority, Department of Defense Appropriation Bill, 1987		[1] $268,675,129,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(c) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Department of Defense for the fiscal year:

Permanent appropriations:	
Federal funds (p. 3020)	$8,000,000
Trust funds (pp. 3035-3036)	63,700,000
Appropriations in legislative acts:	
Military retirement fund, trust funds (P.L. 99-348) (p. 3165)	−193,000,000
Military retirement fund, trust funds (P.L. 99-576) (p. 3166)	7,000,000

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[1] The Department of Defense Appropriation Bill, 1987 (H.R. 5438) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note," above).

Military Construction Appropriation Bill, 1987:		
Department of the Army (pp. 458–466)	$3,476,300,000	
Department of the Navy (pp. 458–466)	2,095,495,000	
Department of the Air Force (pp. 458–466)	2,234,166,000	
Department of Defense (pp. 458–466)	784,813,000	
Fourth Further Continuing Appropriations, 1987 (P.L. 99–591):		
Operation and maintenance (p. 528)	27,615,000	
Procurement (p. 528)	272,385,000	
Subtotal, additions (net)		$8,776,474,000

Deduct advance appropriations for fiscal years 1988 and 1989 and amounts transferred to totals for General Government:

Advance appropriation for fiscal year 1988: Military Construction, Army (p. 459)	$221,000,000	
Advance appropriation for fiscal year 1989: Military Construction, Army (p. 459)	214,000,000	
General Government:		
Barry Goldwater Scholarship and Excellence in Education Fund (p. 284)	40,000,000	
Central Intelligence Agency Retirement and Disability System Fund (p. 283)	125,800,000	
Henry M. Jackson Foundation (p. 284)	10,000,000	
Intelligence Community Staff (p. 284)	21,738,000	
Subtotal, deductions		−632,538,000
Grand total, Department of Defense (net)		[1] 276,819,065,000

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[1] The Department of Defense Appropriation Bill, 1987 (H.R. 5438) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 51, this volume).

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1987

99th Congress, H.R. 5175

[Note.—The District of Columbia Appropriation Bill, 1987 (H.R. 5175) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 15, 1986, and was passed by both the House and the Senate but was conferenced as part of H.J. Res. 738 (see House Report 99-1005 for the joint statements of the Committee of Conference relative to H.R. 5175). Programs normally funded in this bill have been provided for under Sec. 101(d) of Public Law 99-500, approved October 18, 1986, and Sec. 101(d) of Public Law 99-591, approved October 30, 1986 (H.J. Res. 738), Making Further Continuing Appropriations for fiscal year 1987. In addition, Sec. 154 of Public Law 99-591 amends the District of Columbia Code relative to the District of Columbia Committee on Mental Health (see p. 522). See pp. 357-370 for text of Sec. 101(d) of Public Law 99-591 and pp. 3111-3112 for the table VIII showing estimates and funding levels by appropriation account.]

Legislative History—H.R. 5175

House Reports: No. 99-675 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
Senate Report No. 99-367 (Comm. on Appropriations).
Congressional Record, Vol. 132 (1986):
    July 15, reported in the House.
    July 24, considered and passed House.
    Aug. 5, reported in the Senate.
    Aug. 12, considered and passed Senate, amended.
    Aug. 13, proceedings vitiated.
    Sept. 16, considered and passed Senate, amended.
    Oct. 18, included in continuing resolution (H.J. Res. 738).

Note.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(d) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Total:		
Federal funds	$580,380,000	
Appropriations, fiscal year 1987	(560,380,000)	
Advance appropriations, fiscal year 1988	(20,000,000)	
District of Columbia funds (net)	*(3,215,534,000)*	
Appropriations, fiscal year 1987	*(3,060,407,000)*	
Appropriations, fiscal year 1986 supplemental (net)	*(155,127,000)*	
Appropriations	*(190,583,000)*	
Rescissions	*(−35,456,000)*	
Total, new budget (obligational) authority, District of Columbia Appropriation Bill, 1987 (Federal funds)		[1]$580,380,000

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[1] The District of Columbia Appropriation Bill, 1987 (H.R. 5175) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note," above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(d) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the District of Columbia for such fiscal year:

Advance appropriations for fiscal year 1987 made during previous sessions of Congress:		
99th Cong., 1st session:		
Criminal justice initiative (p. 162, 1985-1986 volume)	$20,000,000	
Subtotal, additions		$20,000,000
Deduct advance appropriations for fiscal year 1988:		
Advance appropriation for fiscal year 1988: Criminal Justice Initiative (p. 358)	$20,000,000	
Subtotal, deductions		−20,000,000
Grand total, District of Columbia (Federal funds)		[1]580,380,000

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[1] The District of Columbia Appropriation Bill, 1987 (H.R. 5175) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 53, this volume).

ENERGY AND WATER DEVELOPMENT APPROPRIATION BILL, 1987

99th Congress, H.R. 5162

[NOTE.—The Energy and Water Development Appropriation Bill, 1987 (H.R. 5162) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 15, 1986, and passed the House on July 23, 1986. The Senate reported the bill on September 15, 1986, but no further action was taken. Funding of those programs and activities normally included in this regular annual apropriations bill is provided under Sec. 101(e) of Public Law 99-500, approved October 18, 1986, and Sec. 101(e) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 371-389 for text of Sec. 101(e) of Public Law 99-591, and pp. 3113-3115 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5162

HOUSE REPORTS: No. 99-670 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-441 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 15, reported in the House.
July 23, considered and passed House.
Sept. 15, reported in the Senate.
Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(e) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:		
New budget (obligational) authority	$15,007,277,000	
Limitation on direct loans	*(53,806,000)*	
Limitation on guaranteed loans	*(500,000,000)*	
By transfer	*(687,621,000)*	
Total, new budget (obligational) authority, Energy and Water Development Appropriation Bill, 1987		[1]$15,007,277,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(e) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Departments of Energy and Defense—Civil functions for such fiscal year:

Permanent appropriations:	
Federal Funds (pp. 3020-3021)	$11,491,488,000
Trust Funds (p. 3036)	34,280,355,000
Appropriations in legislative acts:	
Energy Conservation, Federal funds (P.L. 99-509) (p. 3164)	200,000,000
Department of Housing and Urban Development-Independent Agencies Appropriations Bill, 1987:	
Cemeterial Expenses, Army (p. 68)	15,783,000

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[1] The Energy and Water Development Appropriation Bill, 1987 (H.R. 5162) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Department of the Interior and Related Agencies Appropriations Bill, 1987:		
Department of Energy (pp. 443-447)	$935,350,000	
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1987:		
Soldiers' and Airmen's Home (pp. 121-122)	50,263,000	
Subtotal, additions		$46,973,239,000
Deduct amounts transferred to the Department of the Interior and General Government totals:		
Department of the Interior:		
Bureau of Reclamation (pp. 375-380)	$867,647,000	
General Government:		
Appalachian Regional Commission (p. 386)	105,000,000	
Delaware River Basin Commission (p. 386)	385,000	
Interstate Commission on the Potomac River Basin (p. 386)	79,000	
National Council on Public Works Improvements (p. 386)	1,750,000	
Nuclear Regulatory Commission (pp. 386-387)	401,000,000	
Susquehanna River Basin Commission (p. 387)	419,000	
Tennessee Valley Authority (p. 387)	100,000,000	
Subtotal, deductions		−1,476,280,000
Grand total, Departments of Energy and Defense—Civil functions		[1] 60,504,236,000

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[1] The Energy and Water Development Appropriation Bill, 1987 (H.R. 5162) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 55, this volume)

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5339

[NOTE.—The Foreign Assistance and Related Programs Appropriations Bill, 1987 (H.R. 5339) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on August 5, 1986. S. 2824 was reported by the Committee on Appropriations of the Senate on September 16, 1986. The bill was not acted on by the Senate or by the House of Representatives. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(f) of Public Law 99-500, approved October 18, 1986, and Sec. 101(f) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 389-415 for text of Sec. 101(f) of Public Law 99-591, and pp. 3116-3119 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5339

HOUSE REPORTS: No. 99-747 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-443 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
  Aug. 5, reported in the House.
  Sept. 16, S. 2824 reported in the Senate.
  Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(f) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total, all titles:		
New budget (obligational) authority	$13,372,245,711	
Definite appropriations	(13,272,245,711)	
Indefinite appropriations	(100,000,000)	
By transfer	*(15,553,000)*	
Limitation on guaranteed loans	*(11,700,464,000)*	
Limitation on direct loans	*(923,000,000)*	
Limitation on callable capital	*(2,093,170,995)*	
Limitation on obligations	*(315,820,000)*	
Limitation on administrative expenses	*(18,371,500)*	
Limitation on program activity	*(275,000,000)*	
Total, new budget (obligational) authority, Foreign Assistance and Related Programs Appropriations Bill, 1987		[1] $13,372,245,711

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[1] The Foreign Assistance and Related Programs Appropriations Bill, 1987 (H.R. 5339) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(f) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for foreign assistance activities for the fiscal year:

Permanent Appropriations:		
Federal funds (p. 3018)	$473,315,000	
Trust funds (p. 3034)	12,615,635,000	
Fourth Further Continuing Appropriations, 1987 (P.L. 99-591):		
Agency for International Development (p. 525)	3,000,000	
Subtotal, additions		$13,091,950,000
Deduct amounts transferred to Department of State totals:		
International narcotics control (p. 398)	$65,445,000	
Migration and refugee assistance (p. 398)	346,856,000	
Anti-terrorism assistance (p. 398)	9,840,000	
United States Emergency Refugee and Migration Assistance Fund (p. 398)	14,000,000	
Subtotal, deductions		−436,141,000
Grand total, Foreign Assistance		[1] 26,028,054,711

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[1] The Foreign Assistance and Related Programs Appropriations Bill, 1987 (H.R. 5339) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 57, this volume).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5313

[NOTE.—The following bill, H.R. 5313, was enrolled when the conference report was filed in the House on October 7, 1986. The conference report (House Report No. 99-977) did not advance in the legislative process. Programs normally funded in this bill have been provided for in the continuing resolution, Public Law 99-500 and Public Law 99-591. Section 101(g) of the continuing resolution provided such sums as may be necessary for programs, projects, or activities provided for in the Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1987 (H.R. 5313), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report No. 99-977), filed in the House of Representatives on October 7, 1986, as if such Act had been enacted into law. (See p. 416 for Sec. 101(g) of Public Law 99-591 and pp. 3120-3124 for the table VIII showing estimates and funding levels by appropriation account).]

A BILL

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

$601,259,278 (increased limitation on annual contract authority)

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriations Acts, is increased by $601,259,278: *Provided,* That such amount of contracts for annual contributions is further increased by such amounts as may be necessary to permit the obligation of budget authority heretofore provided in appropriations Acts and carried over into fiscal year 1987: *Provided further,* That the budget authority obligated under contracts for annual contributions shall be increased above amounts heretofore provided

$7,805,668,000 *(contract authority)*

in appropriations Acts by $7,805,668,000: *Provided further*, That any part of the amount of the increase in budget authority provided for in the immediately foregoing proviso that is available under this Act for public housing development and acquisition costs or which is to be used for amendments for such costs, shall be available as an appropriation of funds, to remain available until expended, for grants, which are hereby authorized in lieu of loans under section 4(a) of the United States Housing Act of 1937 (42 U.S.C. 1437b), and which the Secretary may make on substantially the same terms (except for repayment unless repayment is a properly imposed sanction) as those heretofore set forth in annual contributions contracts for loans and annual contributions: *Provided further*, That during 1987 and thereafter, any amounts of budget authority which are carried over from a prior year, or which are otherwise available for obligation, and which are available for public housing development and acquisition costs, together with any amounts of budget authority which are to be used for amendments for such costs, in accordance with any Act, shall also be made available as an appropriation of funds for grants, under the same terms as those applying under the immediately preceding proviso: *Provided further*, That of the budget authority provided herein, $137,938,000 shall remain available until expended for assistance in financing the development or acquisition cost of public housing for Indian families; $1,436,940,000 shall be available as an appropriation of funds, to remain available until expended, for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l); $1,602,786,540 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $790,950,000 shall be for the section 8 existing housing program (42 U.S.C. 1437f); $716,287,500 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); $1,025,000,000 shall be available for the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for use, notwithstanding the limitations in section 8(o)(1) of such Act that the Secretary conduct a demonstration, and in section 8(o)(4) of such Act that the Secretary use substantially all authority in connection with certain programs, in connection with the rental rehabilitation program under section 17 of such Act and for any other purposes as determined by the Secretary; $200,000,000 shall be available as an appropriation of funds, to remain available until September 30, 1989, only for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o); and $99,550,000 shall be available as an appropriation of funds, to remain available until September 30, 1989, only for development grants pursuant to section 17(a)(1)(B) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o): *Provided further*, That with respect to grants as authorized by section 17(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437o) which are made using funds made available under this paragraph, notwithstanding the rental housing vacancy rate criteria of the third and sixth sentences of section 17(d)(2) of such Act, no unit of general local government shall be eligible for such a grant unless the percentage of rental dwelling units within its jurisdiction which are vacant is less than the national percentage of rental dwelling units that are vacant and a percentage of rental dwelling units within its jurisdiction which are vacant for more than two months is less than the national percentage of dwelling units that are vacant for more than two months, except that the housing vacancy criteria specified in this paragraph shall not apply to grants authorized by the seventh sentence of such section 17(d)(2): *Provided further*, That of the $7,805,668,000 of budget authority provided herein, $200,000,000 shall remain available until expended for assistance in financing the development or acquisition cost of public housing (other than for Indian families) and for major reconstruction of obsolete public housing projects (other than for Indian families), and an amount equal to the amounts of budget authority which have been reserved or obligated for such purpose in a prior year and which are recaptured during fiscal year 1987 (not including such amounts as may be recaptured from amounts heretofore obligated for such assistance for Indian families, and amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b)) shall also be made available as an appropriation of funds for such purpose: *Provided further*, That any part of the $200,000,000 and the recaptured amount referred to in the immediately foregoing proviso may in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects (other than for Indian families): *Provided further*, That an amount equal to the amounts of budget authority which have been reserved or obligated for assistance in financing the development or acquisition cost of public housing for Indian families and which have been recaptured (not including amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b)), in addition to other amounts of budget authority specified for such purpose under this Act, shall be made available as an appropriation of funds, to remain available until expended for grants for such development or acquisition cost of public housing for Indian families: *Provided further*, That an amount equal to the amounts of budget authority which have been reserved or obligated for assistance for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l) and which are recaptured (not including amounts that become available for rescission pursuant to section 4(c)(3) of the Act (42 U.S.C. 1437b)) or which are carried over from a prior year or are otherwise available for obligation, shall be made available as an appropriation of funds, to remain available until expended, for grants for modernization of existing public housing projects: *Provided further*, That none of the amounts available for obligation in 1987 shall be subject to the provisions of section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439): *Provided further*, That all amounts of budget authority (and contract authority) equal to the amounts of budget authority (and contract authority) reserved or obligated for programs under section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), which are recaptured during fiscal year 1987 shall be rescinded.

−$199,100,000 *(rescission of contract authority, indefinite)*

Amounts of funds for rental rehabilitation grants as authorized by section 17(a)(1)(A) of the United States Housing Act of 1937 and for development grants as authorized by section 17(a)(1)(B) of such Act (42 U.S.C. 1437o) that were appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1985 (Public Law 98–371, 98 Stat. 1213, 1215, amending Public Law 98–45, 97 Stat. 219, 220), to become available in part during fiscal year 1984, and in part on October 1, 1984, shall remain available for obligation until September 30, 1987; and the balance of the amounts of funds for rental rehabilitation grants and for development grants, that were appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1986 (Public Law 99–160, 99 Stat. 909), to be available during fiscal year 1986, which remains following sequestration under the President's order of February 1, 1986, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177; H. Doc. 99–160, 99th Cong. 2d Sess., pages 462–463), shall remain available until September 30, 1988: *Provided*, That the foregoing extensions

−12,225,000 (rescission of limitation on annual contract authority, indefinite)

of the periods of availability for the respective amounts of funds shall apply only to amounts which are recaptured, and section 17(b)(4) of the United States Housing Act of 1937 (relating to reallocations of fund amounts for rental rehabilitation) shall not apply to the respective amounts for rental rehabilitation grants: *Provided further,* That section 17(d)(4)(G) of such Act is amended by inserting before the semicolon the following: "(36 months after notice in the case of projects for which funding notices were issued prior to July 23, 1985)".

Section 17(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "This subsection shall not apply to requirements relating to rents imposed on a structure as a condition of receiving financial assistance under a program of the State of New York for the rehabilitation of the structure if (1) the dollar amount of the State financial assistance (including the principal amount of loans) exceeds the dollar amount of financial assistance provided for the structure under this section, and (2) the structure is privately owned by (A) a person or family whose income does not exceed 80 percent of the median income for the metropolitan statistical area where the structure is located (or the county, if located outside such an area), or (B) a not-for-profit corporation or charitable organization which has as one of its primary purposes the improvement of housing for such persons, or by a wholly owned subsidiary of such a corporation or organization.".

The method of calculation, the preliminary fee, and the percentage established for administrative fees paid to a public housing agency administering a contract under this heading shall be the method of calculation, the preliminary fee, and the percentage established by the Secretary as of September 30, 1986.

[*Total, annual contributions for assisted housing:*	
[*Contract authority (net)*	*$7,606,568,000.*]
[*Increased limitation on annual contract authority (net)*	*589,034,278.*]

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s) is reduced in fiscal year 1987 by not more than $2,900,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

−$2,900,000 (limitation on annual contract authority, indefinite)

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1987 by not more than $3,500,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

−54,000,000 *(rescission of contract authority, indefinite)*

−3,500,000 (limitation on annual contract authority, indefinite)

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In 1987, $592,661,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the

592,661,000 (limitation on direct loans) elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1987 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

$507,689,000 *(authority to borrow)*

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $3,400,000, to remain available until September 30, 1988. 3,400,000

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,350,000,000. 1,350,000,000

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $3,500,000. 3,500,000

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all uncommitted balances of excess rental charges and any collections after September 30, 1986, to remain available until September 30, 1988: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12

U.S.C. 1715z-3(b) and 1735c(f)), $272,955,000, to remain available until expended.

$272,955,000
−245,915,000
(debt reduction)

During 1987, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During 1987, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

100,000,000,000
(limitation on guaranteed loans)

During fiscal year 1987, gross obligations for direct loans of not to exceed $73,800,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

73,800,000
(limitation on direct loans)

[*Total, Federal Housing Administration Fund (net), $27,040,000.*]

NONPROFIT SPONSOR ASSISTANCE

During 1987, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,000,000.

1,000,000
(limitation on direct loans)

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interest or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), $1,079,000.

1,079,000

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During 1987, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $150,000,000,000 of loan principal.

150,000,000,000
(limitation on guaranteed loans)

[*Total, Housing Programs (net), $9,445,276,000.*]

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

The funds appropriated under this heading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1985 (Public Law 98-371) shall remain available until September 30, 1987: *Provided,* That all funds recaptured from prior year appropriations under this heading shall be reallocated to eligible financial institutions.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1989: *Provided,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the next following proviso)

3,000,000,000

shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That not more than $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).

During 1987, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $150,000,000 of contingent liability for loan principal.

$150,000,000 (limitation on guaranteed loans)

During 1987 and each succeeding fiscal year, any city within a metropolitan area shall be considered to be a metropolitan city under section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) if such city—

(1) was entitled to a grant of a hold-harmless amount under section 106(h) of such Act as such section was in effect prior to the enactment of Public Law 96-399;

(2) had, according to the 1980 decennial census, a population of 36,957; and

(3) received a preliminary grant approval on March 8, 1984, for an urban development action grant under section 119 of the Housing and Community Development Act of 1974.

A city which qualifies as a metropolitan city pursuant to paragraphs (1), (2), and (3) of this section shall be eligible in fiscal year 1987 for a grant under section 106(b)(1) of the Housing and Community Development Act of 1974, as amended, notwithstanding the provisions of section 102(d) of such Act: *Provided*, That any such city which had entered into a cooperation agreement to include its population in that of an urban county, as provided in section 102(a)(6)(B)(ii) of such Act, shall only be eligible for such a grant if both the city and urban county mutually agree to terminate such cooperation agreement for such fiscal year.

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $225,000,000, to remain available until September 30, 1990. 225,000,000

REHABILITATION LOAN FUND

During 1987, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1985, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $12,000,000, to remain available until expended. 12,000,00

MODEL CITIES PROGRAM

Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the City of New Orleans in the State of Louisiana to pay any amount relating to ineligible costs incurred with respect to the model cities grant numbered ME-17-001 under title I of the Demonstration Cities and Metropolitan Development Act of 1966.

[*Total, Community Planning and Development,* [1]*$3,252,000,000.*]

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $17,000,000, to remain available until September 30, 1988.

$17,000,000

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $6,341,300, to remain available until September 30, 1988.

6,341,300

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, and during 1987, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,270 for Public and Indian Housing Programs, $647,385,000 of which $306,962,000 shall be provided from the various funds of the Federal Housing Administration.

340,423,000
306,962,000
(limitation on corporate funds)

ADMINISTRATIVE PROVISION

None of the funds appropriated by this or any other Act shall be used to implement or enforce the regulations published on April 1, 1986, at 51 Fed. Reg. 11198-11231.

No part of the funds made available by this or any other Act in fiscal year 1987 maybe used to close any field office of the Department of Housing and Urban Development. Of the funds made available by this Act, the Secretary of the Department of Housing and Urban Development shall utilize such sums as are necessary to re-open any such field office closed by the Department in the twelve months preceding the date of enactment of this Act.

Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: Such term also includes the counties of Kauai, Maui and Hawaii in the State of Hawaii.

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[1] Includes appropriation of $15,000,000 for "Homeless Housing Programs" from Sec. 526 (see p. 88, this volume).

[Total, title I, Department of Housing and Urban Development:

[New budget (obligational) authority (net)	*$13,061,040,300.]*
[Appropriations	*5,246,698,300.]*
[Portion applied to debt reduction	*−245,915,000.]*
[Contract authority	*7,805,668,000.]*
[Rescission of contract authority, indefinite	*−253,100,000.]*
[Authority to borrow	*507,689,000.]*
[Increased limitation on annual contract authority (net)	*589,034,278.]*
[Limitation on annual contract authority, indefinite	*−6,400,000.]*
[Limitation on direct loans	*667,461,000.]*
[Limitation on corporate funds to be expended	*306,962,000.]*
[Limitation on guaranteed loans	*250,150,000,000.]*

TITLE II

INDEPENDENT AGENCIES

American Battle Monuments Commission

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; $11,673,000: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading.

$11,673,000

Consumer Product Safety Commission

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, and not to exceed $500 for official reception and representation expenses, $34,100,000: *Provided*, That no more than $250,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053: *Provided further*, That none of these funds shall be available after August 31, 1987, for any Commissioners' offices located in the Logan Building.

34,100,000

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $15,783,000, to remain available until expended: *Provided,* That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation. $15,783,000

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $701,107,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913). 701,107,000

RESEARCH AND DEVELOPMENT

For research and development activities, $202,500,000, to remain available until September 30, 1988. 202,500,000

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $582,685,000, of which $50,000,000 shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984, as amended, including not more than $2,500,000 for administrative expenses and not more than $5,000,000 to defray the costs of reinspections of schools for asbestos as required by law or regulation, with all of such funds to remain available until September 30, 1988: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949). 582,685,000

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $7,500,000, to remain available until expended, of which $2,000,000 shall be for construction of a laboratory addition at the Environmental Research Center at the University of Nevada, Las Vegas, and $500,000 shall be for renovation of research facilities at the Edison, New Jersey Complex. 7,500,000

[*Total, operating programs, $1,493,792,000.*]

ADVANCES TO TRUST FUNDS

For payment, as repayable advances to the Hazardous Substance Response Trust Fund, when specifically authorized by the Comprehensive Enviromental Response, Compensation, and Liability Act of 1980, as amended, and to the Leaking Underground Storage Tank Trust Fund, as authorized by the Superfund Amendments and Reauthorization Act of 1986, borrowed funds as may be necessary to carry out the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 205 of the Superfund Amendments and Reauthorization Act of 1986.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out Leaking Underground Storage Tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $50,000,000, to remain available until expended: *Provided*, That no more than $7,000,000 shall be available for administrative expenses.

$50,000,000

7,000,000 (limitation on administrative expenses)

HAZARDOUS SUBSTANCE RESPONSE TRUST FUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,411,300,000, to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided*, That funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of Public Law 96-510: *Provided further*, That none of the funds appropriated under this heading shall be available for sections 311(d), 111(n)(3), 111(b) or 111(c)(2) of CERCLA, as amended, or sections 118(l) or 118(o) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $30,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 111(c)(4), 104(i), 111(c)(14), and 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That of the amounts appropriated under this heading in Public Law 99-160, $600,000,000 are rescinded. For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, an additional $135,000,000 shall be available for administrative expenses.

1,411,300,000

−600,000,000 (*rescission*)

135,000,000 (limitation on administrative expenses)

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209, $2,400,000,000, to remain available until expended, of which $600,000,000 shall be made available and derived from sums previously appropriated for this purpose in Public Law 99-190: *Provided*, That availability of funds made available under this section shall not be limited to phases or segments of previously funded projects: *Provided further*, That allocation of the sums made available under this section shall be in accordance with the formula in effect on October 1, 1984: *Provided further*, That of the funds appropriated in this paragraph $1,200,000,000 shall not become available until the enactment of a subsequent appropriations Act authorizing obligation of such funds: *Provided further*, That none of these funds may be used for any project providing treatment more stringent than secondary, unless the project has been reviewed in accordance with the Environmental Protection

1,800,000,000

600,000,000 (release of prior year authority)

Agency's advance treatment review policy: *Provided further,* That no unit of government shall receive less in 1987 than it received in 1985 under sections 205(g) and 205(j) of the Federal Water Pollution Control Act.

ADMINISTRATIVE PROVISION

Not to exceed $5,000,000 of the funds collected by the Environmental Protection Agency pursuant to 31 U.S.C. 9701 for quality assurance mandatory services and for quality assurance materials shall hereafter be credited to the appropriation which incurred the costs therefor and shall be available for the purposes of that appropriation.

[*Total Environmental Protection Agency (net)* ..	*$4,155,092,000.*]
[*Appropriation*	*4,755,092,000.*]
[*Rescission*	*−600,000,000.*]

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $800,000.

$800,000

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,900,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

1,900,000

[*Total, Executive Office of the President, $2,700,000.*]

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $120,000,000, to remain available until expended: *Provided,* That the regulation changes proposed by the Federal Emergency Management Agency and set forth at 51 Fed. Reg. 13332-13373 (April 18, 1986), or any finally adopted regulations related to or developed or following from such proposed regulations, shall not be effective from enactment of this Act through September 30, 1987.

120,000,000

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $124,000,000. $124,000,000

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $262,000,000. 262,000,000

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,300,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance programs and $45,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1988. In fiscal year 1987, no funds in excess of (1) $42,788,000 for operating expenses, (2) $117,950,000 for agents' commissions and taxes, and (3) $5,362,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $70,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this or any other Act, such amount shall be made available under the terms and conditions of the following paragraphs: 70,000,000

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., and the American Red Cross shall each nominate a representative to sit on the national board, and the Director of the Federal Emergency Management Agency shall designate a representative from each of these organizations to sit on the national board. The Federal Emergency

Management Agency shall also designate a representative to sit on the national board, and the representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for $70,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations and through units of local government.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed 2 per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

[*Total, Federal Emergency Management Agency, $576,000,000.*]

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,272,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1987 shall not exceed $1,664,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1987 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

$1,272,000

1,664,000 (limitation on administrative expenses)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,750,000.

1,750,000

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $3,091,700,000, to remain available until September 30, 1988. [1]$3,091,700,000

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $3,317,000,000, to remain available until September 30, 1988. [2]3,317,000,000

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $166,300,000, to remain available until September 30, 1989: 166,300,000 *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,425,000,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

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[1] Section 101(g) of Public Law 99–591, provides an additional $36,000,000 (see p. 416, this volume).

[2] Section 101(g) of Public Law 99–591, provides an additional $2,398,000,000 (see p. 416, this volume).

$1,425,000,000

[*Total, National Aeronautics and Space Administration, $8,000,000,000.*]

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During 1987, obligations of the Central Liquidity Facility for new loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1987 shall not exceed $850,000.

600,000,000 (limitation on direct loans)

850,000 (limitation on administrative expenses)

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876–1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,406,150,000 to remain available until September 30, 1988: *Provided,* That of the funds appropriated in this Act, not more than $85,060,000 shall be available for astronomical sciences: *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $76,500,000 shall be available for program development and management in fiscal year 1987: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1987 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

1,406,150,000

76,500,000 (limitation on administrative expenses)

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $117,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft. $117,000,000

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $99,000,000, to remain available until September 30, 1988: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally. 99,000,000

SCIENTIFIC ACTIVITIES OVERSEAS

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, $700,000, to remain available until September 30, 1988: *Provided,* That this appropriation shall be available in addition to other appropriations to the National Science Foundation for payments in the foregoing currencies. 700,000

[*Total, National Science Foundation, $1,622,850,000.*]

Neighborhood Reinvestment Corporation

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $19,000,000. 19,000,000

Selective Service System

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,128,400: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connec- 26,128,400 tion with the induction of any person into the Armed Forces of the United States: *Provided further,* That upon enactment of this Act, the amendments to title 32 of the Code of Federal Regulations set forth at 51 Fed. Reg. 17618–17628 (May 14, 1986) shall be null and void.

DEPARTMENT OF THE TREASURY

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses of the Office of Revenue Sharing, including hire of passenger motor vehicles, $5,560,000. $5,560,000

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,364,400,000, to remain available until expended. 14,364,400,000

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34–36, 39, 51, 53, 55, and 61), $741,150,000, to remain available until expended. 741,150,000

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $4,770,000, to remain available until expended. 4,770,000

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $9,411,817,000, plus reimbursements. 9,411,817,000

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1988, $189,915,000, plus reimbursements. $189,915,000

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $41,194,000, plus reimbursements. 41,194,000

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of eleven passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $760,000,000: *Provided,* That none of the funds appropriated by this or any other Act shall be obligated to effect the closing of the St. Paul Insurance Center during the period beginning on the date of the enactment into law of this Act and ending on September 30, 1987. 760,000,000

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $382,708,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the Design Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1987, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1987 and (2) by the awarding of a construction contract by September 30, 1988: *Provided further,* That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veter- 382,708,000 ans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $80,000,000 to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided*, That not more than $38,000,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

$80,000,000

38,000,000
(limitation on administrative expenses)

PARKING GARAGE REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $30,000,000, together with income from fees collected, to remain available until expended, of which $4,000,000 shall be derived by transfer from "Construction, major projects". Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009.

26,000,000
4,000,000
(by transfer)

During 1987, within the resources available, gross obligations of the "Parking garage revolving fund" shall not exceed $31,000,000.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), $42,400,000, to remain available until September 30, 1989.

42,400,000

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1988.

500,000

DIRECT LOAN REVOLVING FUND

During 1987, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

1,000,000
(limitation on direct loans)

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

During 1987, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1987, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1987, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1987 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for "Parking garage revolving fund" may be increased by a transfer from "Construction, major" and "Construction, minor" not to exceed 10 per centum of the appropriation so augmented.

Such sums may be transferred from the "Compensation and pensions" appropriation to the "Medical care" appropriation as may be necessary to provide for increased pay costs to maintain an average employment of 194,140 in the "Medical care" appropriation.

Average employment for administrative support in fiscal year 1987 in the "Medical care" appropriation shall not exceed 37,700.

Appropriations available to the Veterans Administration for 1987 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

One or more pilot programs shall be conducted to determine the effectiveness of utilizing private contractual services to assist in the administrative collection of various types of delinquent debts or other funds due the Government.

[Total, Veterans Administration, $26,044,854,000.]

[Total, title II, Independent Agencies:

[New budget (obligational) authority	*$40,516,762,400.]*
[Appropriations	*41,116,762,400.]*
[Rescission	*−600,000,000.]*
[By transfer	*4,000,000.]*
[Limitation on administrative expenses	*259,014,000.]*
[Limitation on direct loans	*601,000,000.]*

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1987 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

$27,693,000 (limitation on corporate funds)

Not to exceed a total of $27,693,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

1,466,000 (limitation on corporate funds)

Not to exceed $1,466,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

[*Total, title III, Corporations, limitation on corporate funds to be expended, $29,159,000.*]

TITLE IV

GENERAL PROVISIONS

SECTION 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

TITLE V—SHELTER PROGRAMS

PART A—GENERAL PROVISIONS

SEC. 501. SHORT TITLE.

This title may be cited as the "Homeless Housing Act of 1986".

SEC. 502. DEFINITIONS.

For the purpose of this title—

(1) the term "homeless" means families and individuals who are poor and have no access to either traditional or permanent housing;

(2) the term "local government" means a unit of general purpose local government;

(3) the term "locality" means the geographical area within the jurisdiction of a local government;

(4) the term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under subtitle A of such Code, and which has an accounting system and a voluntary board, and which practices nondiscrimination in the provision of assistance;

(5) the term "Secretary" means the Secretary of Housing and Urban Development;

(6) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(7) the term "homeless person" means a homeless person who is capable within a reasonable amount of time of living independently;

(8) the term "housing for homeless persons" means a structure suitable for the provision of housing and supportive services in an appropriate group setting;

(9) the term "recipient" means any governmental or private nonprofit entity that is approved by the Secretary as to financial responsibility;

(10) the term "operating costs" means expenses incurred by a recipient operating housing for homeless persons under this part with respect to—

(A) the administration, maintenance, repair, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing;

(C) the conducting of the assessment required in section 513(c)(2); and

(D) the provision of supportive services to the residents of such housing; and

(11) the term "supportive services" means assistance in obtaining permanent housing, medical and psychological counseling and supervision, employment counseling, nutritional counseling, and such other services essential for maintaining independent living as the Secretary determines to be appropriate. Such term includes the provision of assistance to residents of housing for homeless persons in obtaining other Federal, State, and local assistance available for such persons, including mental health benefits, employment counseling, and medical assistance.

Part B—Transitional Housing Demonstration Program

SEC. 511. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

(a) In General.—The Secretary shall carry out a program in accordance with the provisions of this part to develop innovative approaches for providing transitional housing and supportive services for homeless persons, focusing on those capable of moving into independent living.

(b) Purposes.—The demonstration program carried out under this part shall be designed to determine—

(1) the cost of acquisition, rehabilitation, acquisition and rehabilitation, or leasing of existing structures for the provision of housing for homeless persons;

(2) the cost of operating such housing and providing supportive services to the residents of such housing; and

(3) the social, financial, and other advantages of such housing and supportive services as a means of assisting homeless persons.

SEC. 512. TYPES OF ASSISTANCE.

(a) In General.—The Secretary may provide the following assistance under the demonstration program established in this part:

(1) a non-interest-bearing advance, in an amount not to exceed $200,000, of the aggregate cost of acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in the provision of housing and supportive services for homeless persons, whichever is less;

(2) annual payments for operating costs of such housing, not to exceed 75 percent of the annual operating costs of such housing; and

(3) technical assistance in establishing and operating such housing and providing supportive services to the residents of such housing.

(b) Nonrepayment of Advances.—Any advance provided under subsection (a)(1) shall not be required to be repaid if the recipient involved utilizes the structure for which such advance is made as housing for homeless persons in accordance with the provisions of this part for not less than the 10-year period following initial occupancy of such housing, or if the Secretary determines that such structure is no longer needed for use as transitional housing and approves the use of such structure for another charitable purpose, for the remainder of such 10-year period. If the applicant fails to comply with the conditions for waiver of repayment, the applicant shall repay to the Secretary in cash the full amount of the advance received on such terms as may be prescribed by the Secretary.

SEC. 513. PROGRAM REQUIREMENTS.

(a) Applications.—Applications for assistance under this part shall be made in such form and in accordance with such procedures as the Secretary shall establish.

(b) SELECTION CRITERIA.—In selecting recipients for assistance under this part, the Secretary shall consider—

(1) the ability of the applicant to develop and operate housing for homeless persons and to provide or coordinate supportive services for the residents of such housing;

(2) the innovative quality of the proposal in providing housing and supportive services in a manner which facilitates the transition to independent living;

(3) the need for such housing and supportive services in the area to be served; and

(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the demonstration program established by this part in an effective and efficient manner.

(c) REQUIRED AGREEMENTS.—Each recipient under this part shall agree, with respect to each structure for which such assistance is provided—

(1) to operate transitional housing assisting residents in the transition to independent living and limiting the stay of individual residents to a period to be established by the Secretary;

(2) to conduct as assessment of the supportive services required by the residents of such structure;

(3) to employ a full-time residential supervisor with sufficient expertise to provide, or supervise the provision of, supportive services to the residents of such structure;

(4) to utilize such structure as housing for homeless persons in accordance with the provisions of this part for not less than the 5-year period following initial occupancy of such housing;

(5) to monitor and report to the Secretary on the progress of homeless persons assisted; and

(6) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the demonstration program established in this part in an effective and efficient manner.

(d) OCCUPANT RENT.—Each homeless person residing in housing assisted under this part shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

SEC. 514. GUIDELINES.

(a) IN GENERAL.—Not later than the expiration of the 180-day period following the date of enactment of this Act, the Secretary shall issue such guidelines as may be necessary to carry out the provisions of this part.

(b) ADVANCE CONSULTATION.—Before issuing guidelines under this section, the Secretary shall consult with persons and entities having expertise with respect to the problems and needs of homeless persons or experience in providing housing or supportive services for such persons.

(c) PUBLICATION.—Guidelines established under subsection (a) shall be published annually and whenever modified in the Federal Register. The Secretary shall be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5, United States Code.

SEC. 515. REPORTS TO CONGRESS.

The Secretary shall submit to the Congress—

(1) not later than 3 months after the end of fiscal year 1987, an interim report summarizing the activities carried out under this part during such fiscal year and setting forth any preliminary findings or conclusions of the Secretary as a result of such activities; and

(2) not later than 6 months after the end of fiscal year 1988, a final report summarizing all activities carried out under this part and setting forth any findings, conclusions, or recommendations of the Secretary as a result of such activities.

SEC. 516. LIMITATION ON BUDGET AUTHORITY.

The aggregate amount of non-interest bearing advances and annual payments for operating expenses made by the Secretary under this part in fiscal year 1987 may not exceed $5,000,000 from the amount made available under section 526. Such amount shall remain available until expended.

PART C—EMERGENCY SHELTER GRANTS PROGRAM

SEC. 521. GRANT ASSISTANCE.

The Secretary shall, to the extent of amounts approved in appropriations Acts under section 526, make grants to States, units of local government, and to private nonprofit organizations providing assistance to the homeless in order to carry out activities described in section 525.

SEC. 522. ALLOCATION AND DISTRIBUTION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary shall allocate assistance under this part to metropolitan cities, urban counties, and States (for distribution to units of general local government in the States) in a manner that ensures that the percentage of the total amount available under this part for any fiscal year that is allocated to any State, metropolitan city, or urban county is equal to the percentage of the total amount available for section 106 of the Housing and Community Development Act of 1974 for such prior fiscal year that is allocated to such State, metropolitan city, or urban county.

(b) MINIMUM ALLOCATION REQUIREMENT.—If, under the allocation provisions applicable under this part, any metropolitan city or urban county would receive a grant of less than $30,000 for any fiscal year, such amount shall instead be reallocated to the State.

(c) DISTRIBUTIONS TO NONPROFIT ORGANIZATIONS.—Any unit of general local government receiving assistance under this part may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to the homeless.

(d) REALLOCATION OF FUNDS.—

(1) The Secretary shall, not less than twice during each fiscal year, reallocate any assistance provided under this part that is unused or returned or which becomes available under subsection (b).

(2) The Secretary shall provide such reallocation funds—

(A) to units of general local government demonstrating extraordinary need or large numbers of homeless individuals;

(B) to private nonprofit organizations providing assistance to the homeless; and

(C) to meet such other needs consistent with the purposes of this part.

SEC. 523. ELIGIBLE ACTIVITIES.

Assistance provided under this part may be used for the following activities relating to emergency shelter for the homeless:

(1) renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

(2) provision of essential services, including services concerned with employment, health, drug abuse, or education, if—

(A) such services have not been provided by the unit of general local government during any part of the immediately preceding 12-month period; and

(B) not more than 15 percent of the amount of any assistance to a unit of general local government under this part is used for activities under this paragraph; and

(3) maintenance, operation (other than staff), insurance, utilities, and furnishings.

SEC. 524. RESPONSIBILITIES OF GRANTEES.

(a) SUBMISSION OF HOMELESS ASSISTANCE PLAN.—Following notification by the Secretary of eligibility for assistance under this part, each State, metropolitan city, and urban county shall submit to the Secretary a plan describing the proposed use of such assistance. The Secretary shall provide the appropriate amount of assistance to such State, metropolitan city, or urban county before the expiration of the 60-day period following the date of the submission of such plan, unless the Secretary determines before the expiration of such period that such plan is not in compliance with this part.

(b) MATCHING AMOUNTS.—

(1) Each grantee under this part shall be required to supplement the assistance provided under this part with an equal amount of funds from sources other than this part. Each grantee shall certify to the Secretary its compliance with this paragraph, and shall include with such certification a description of the sources and amounts of such supplemental funds.

(2) In calculating the amount of supplemental funds provided by a grantee under this part, a grantee may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of the grantee, and the value of the time and services contributed by volunteers to carry out the program of the grantee at a rate determined by the Secretary.

(c) ADMINISTRATION OF ASSISTANCE.—Each grantee shall act as the fiscal agent of the Secretary with respect to assistance provided to such grantee.

(d) CERTIFICATIONS ON USE OF ASSISTANCE.—Each grantee shall certify to the Secretary that—

(1) it will maintain as a shelter for the homeless for not less than a 3-year period any building for which assistance is used under this part, or for not less than a 10-year period if such assistance is used for a major rehabilitation or conversion of such buildings;

(2) any renovation carried out with assistance under this part shall be sufficient to ensure that the building involved is safe and sanitary; and

(3) it will assist homeless individuals in obtaining—

(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

(B) other Federal, State, local, and private assistance available for such individuals.

SEC. 525 ADMINISTRATIVE PROVISIONS.

(a) REGULATIONS.—Not later than the expiration of the 60-day period following the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this part. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue requirements based on the initial notice before the expiration of the 12-month period following the date of enactment of this Act.

(b) INITIAL ALLOCATION OF ASSISTANCE.—Not later than the expiration of the 60-day period following the date of enactment of a law providing appropriations to carry out this part, the Secretary shall notify each State, metropolitan city, and urban country that is to receive a direct grant, of its allocation of assitance under this part. Such assistance shall be allocated and may be used notwithstanding any failure of the Secretary to issue requirements under subsection (a).

SEC. 526. APPROPRIATIONS FOR PARTS B AND C.

There are authorized to be appropriated and there are hereby appropriated to the Department of Housing and Urban Development for fiscal year 1987, $15,000,000 to remain available until expended to carry out part B and this part. [1]$15,000,000

This Act may be cited as the "Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987".

LEGISLATIVE HISTORY—H.R. 5313

HOUSE REPORTS: No. 99-731 (Comm. on Appropriations), No. 99-977 (Comm. of Conference), and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-487 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986)
September 12, considered and passed House.
October 3, considered and passed Senate, amended.
October 7, House filed conference report (H. Rept. No. 99-977).
October 18, included in continuing resolution (H.J. Res. 738).

Grand total, all titles:		
New budget (obligational) authority (net)	$53,577,802,700	
Appropriations	(46,363,460,700)	
Portion applied to debt reduction	(−245,915,000)	
Contract authority	(7,805,668,000)	
Rescission	(−600,000,000)	
Rescission of contract authority, indefinite	(−253,100,000)	
Authority to borrow	(507,689,000)	
By transfer	*(4,000,000)*	
Increased limitation for annual contract authority (net)	*(589,034,278)*	
Limitation on administration expenses	*(259,014,000)*	
Limitation on annual contract authority, indefinite	*(−6,400,000)*	
Limitation on direct loans	*(1,268,461,000)*	
Limitation on guaranteed loans	*(250,150,000,000)*	
Limitation on corporate funds to be expended	*(336,121,000)*	
Total, new budget (obligational) authority, Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1987 (net)		[2]53,577,802,700

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(g) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Department of Housing and Urban Development for such fiscal year:

Permanent appropriations:	
Federal funds (pp. 3022-3023)	$1,580,178,000
Trust funds (p. 3038)	5,000
Appropriations in legislative acts:	
Community development grants, FFB direct loans, Federal funds (P.L. 99-272) (p. 3164)	−58,000,000
Low-rent public housing—loans and other expenses, Federal funds (P.L. 99-272) (p. 3164)	241,000,000

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[1] Included in total for "Community Planning and Development" on p. 66, this volume.

[2] The Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1987 (H.R. 5313) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on p. 59, this volume).

Urgent Supplemental Appropriations Act, 1986:		
Annual contributions for assisted housing (rescission) (p. 21)	−$6,042,000,000	
Subtotal, additions (net)		−$4,278,817,000

Deduct amounts for offices and independent agencies transferred to Defense—Civil functions, Departments of Health and Human Services, Treasury, and General Government totals:

Defense—Civil functions:		
Cemeterial expenses, Army (p. 68)	$15,783,000	
Department of Health and Human Services:		
Office of Consumer Affairs (p. 72)	1,750,000	
Department of the Treasury:		
Office of Revenue Sharing (p. 76)	5,560,000	
General Government:		
American Battle Monuments Commission (p. 67)	11,673,000	
Consumer Information Center (GSA) (p. 72)	1,272,000	
Consumer Product Safety Commission (p. 67)	34,100,000	
Environmental Protection Agency (pp. 68–70)	4,155,092,000	
Executive Office of the President (p. 70)	2,700,000	
Federal Emergency Management Agency (pp. 70–72)	576,000,000	
National Aeronautic and Space Administration (pp. 72–74)	8,000,000,000	
National Science Foundation (pp. 74–75)	1,622,850,000	
Neighborhood Reinvestment Corporation (p. 75)	19,000,000	
Selective Service System (pp. 75–76)	26,128,400	
Veterans Administration (pp. 76–79)	26,044,854,000	
Subtotal, deductions		−40,516,762,400
Grand total, Department of Housing and Urban Development (net)		[1]8,782,223,300

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[1] The Department of Housing and Urban Development—Independent Agencies Appropriations Bill, 1987 (H.R. 5313) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" p. 59, this volume).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5234

[NOTE.—The Department of the Interior and Related Agencies Appropriations Bill, 1987 (H.R. 5234) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 24, 1986. The bill passed the House on July 31, 1986, and was subsequently considered in the Senate, amended, and passed on September 16, 1986. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(h) of Public Law 99-500, approved October 18, 1986, and Sec. 101(h) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 416-458 for text of Sec. 101(h) of Public Law 99-591, and pp. 3125-3129 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5234

HOUSE REPORTS: No. 99-714 (Comm. on Appropriations), No. 99-1002 (Comm. of Conference), and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-397 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 24, reported in the House.
July 31, considered and passed House.
Aug. 13, reported in the Senate.
Sept. 8 and 9, considered in the Senate.
Sept. 16, passed Senate, amended.
Oct. 15, conference report filed in the House (H. Report No. 99-1002).
Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(h) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriations bill:

Grand total:		
New budget (obligational) authority (net)	$8,308,405,000	
Appropriations, definite	(8,346,362,000)	
Appropriations, indefinite	(−34,757,000)	
Rescission	(−3,200,000)	
Liquidation of contract authority	*(12,500,000)*	
Limitation on direct loans	*(16,320,000)*	
Timber receipt transfer to general fund, indefinite	*(−86,815,000)*	
By transfer	*(2,922,000)*	
Total, new budget (obligational) authority, Department of the Interior and Related Agencies Appropriations Bill, 1987 (net)		[1] $8,308,405,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(h) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Department of the Interior for such fiscal year:

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[1] The Department of the Interior and Related Agencies Appropriations Bill, 1987 (H.R. 5313) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" above).

Permanent appropriations:		
Federal funds (pp. 3023–3026)	$1,050,587,000	
Trust funds (pp. 3038–3039)	671,728,000	
Appropriations in legislative acts:		
Compact of Free Association, Federal funds (P.L. 99-658) (p. 3163)	170,000,000	
Forest products program, Federal funds (P.L. 99-561 (p. 3163)	1,000,000	
Migratory bird conservation account, Federal funds (P.L. 99-645) (p. 3163)	33,000,000	
White earth settlement fund, Federal funds (P.L. 99-264) (p. 3163)	10,000,000	
Energy and Water Development Appropriations Act, 1987: Bureau of Reclamation (pp. 375–380)	867,647,000	
Fourth Further Continuing Appropriations, 1987 (P.L. 99-591):		
National Park Service (p. 525)	1,000,000	
Bureau of Indian Affairs (pp. 525–526)	22,500,000	
Subtotal, additions		$2,827,462,000

Deduct amounts transferred to Department of Agriculture; Department of Education; Department of Energy; Department of Health and Human Services; and General Government totals:

Department of Agriculture:		
Forest Service (pp. 439–443)	$1,665,845,000	
Department of Education (p. 449)	64,036,000	
Department of Energy (pp. 443–447)	935,350,000	
Department of Health and Human Services (pp. 447–449)	907,364,000	
General Government:		
Advisory Council on Historic Preservation (p. 453)	1,533,000	
Commission of Fine Arts (p. 453)	450,000	
Franklin Delano Roosevelt Memorial Commission (p. 453)	5,000	
Holocaust Memorial Council (p. 454)	2,040,000	
National Capital Planning Commission (p. 453)	2,684,000	
National Foundation on the Arts and Humanities (pp. 451–453)	328,821,000	
Navajo-Hopi Relocation Commission (p. 449)	22,335,000	
Pennsylvania Avenue Development Corporation (p. 453–454)	6,321,000	
Smithsonian Institution (pp. 450–451)	245,819,000	
Subtotal, deductions		–4,182,603,000
Grand total, Department of the Interior		[1]6,953,264,000

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[1] The Department of the Interior and Related Agencies Appropriations Bill, 1987 (H.R. 5313) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 91, this volume).

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5233

[Note.—The following bill, H.R. 5233, was enrolled when the conference report was filed in the House on October 2, 1986. The conference report (House Report No. 99-960) did not advance in the legislative process. Programs normally funded in this bill have been provided for in the continuing resolution, Public Law 99-500 and Public Law 99-591. Section 101(i) of the continuing resolution provided such sums as may be necessary for programs, projects, or activities provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 1987 (H.R. 5233), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report No. 99-960), filed in the House of Representatives on October 2, 1986, as if such Act had been enacted into law. (See p. 458 for Sec. 101(i) of Public Law 99-591 and pp. 3130-3137 for the table VIII showing estimates and funding levels by appropriation account).]

A BILL

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1987, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

Employment and Training Administration

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $67,363,000 together with not to exceed $44,763,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

$67,363,000

44,763,000 (limitation on trust fund transfer)

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $3,656,013,000 plus reimbursements, to be available for obligation for the period July 1, 1987, through June 30, 1988, including

3,656,013,000

$2,000,000 for the National Commission for Employment Policy, including $4,000,000 for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and including $10,000,000 for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: *Provided further*, That of the funds made available for obligation for the Summer Youth Employment and Training Program for the program years 1986 and 1987 the Secretary of Labor may reserve an amount, which, when combined with excess unexpended funds, shall not exceed fifteen percent of the total provided for the program, and allot such funds to the States so that each service delivery area receives, as nearly as possible, an amount equal to its prior year allocation for this program. For the purposes of this provision, "excess unexpended funds" shall mean for program year 1986, any amount unexpended as of September 30, 1986, in excess of 10 percent of the prior year State allotment, and for program year 1987, any amount unexpended as of September 30, 1987, in excess of 10 percent of the prior year State allotment. Reallocations of excess unexpended funds pursuant to this provision shall be accomplished by reducing, by an amount equivalent to the amount of excess unexpended funds, allotments made to the States.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $29,900,000. $29,900,000

[*Total, Training and Employment Services, $3,685,913,000.*]

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $254,280,000. 254,280,000

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $71,720,000. 71,720,000

[*Total, Community Service Employment for Older Americans, $326,000,000.*]

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended) $118,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments. 118,000,000

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-

235 and 243–244, title II of the Trade Act of 1974, as amended; and as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii) and 212(a)(14) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.), $23,400,000, together with not to exceed $2,341,901,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1987, and of which $22,700,000 together with not to exceed $732,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1987, through June 30, 1988, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $150,910,000 (including not to exceed $4,800,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1987.

$23,400,000
2,341,901,000
(limitation on trust fund transfer)

[*Total, Employment and Training Administration, $4,220,676,000.*]

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $62,275,000, of which $1,100,000 shall remain available until expended for a pension plan data base.

62,275,000

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1987, for such Corporation: *Provided,* That not to exceed $36,874,000 shall be available for administrative expenses of the Corporation.

36,874,000
(limitation on trust fund transfer)

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, and including $1,500,000 which shall be available for transfer to Departmental Management, Salaries and Expenses, $194,209,000 together with $441,000, which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

$194,209,000

441,000 (limitation on trust fund transfer)

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $263,600,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1987.

263,600,000

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $234,538,000 of which $186,687,000 shall be available until September 30, 1988, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $25,826,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $21,413,000 for transfer to Departmental Management, Salaries and Expenses, and $612,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, there are hereby appropriated such amounts as may be necessary to repay advances from the Treasury that are not needed to make disbursements during the current fiscal year, as authorized by section 9501(d)(4) of that Act: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury

234,538,000

756,000 *(indefinite)*

determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

[*Total, Black Lung Disability Trust Fund, $235,294,000.*]
[*Total, Employment Standards Administration, $693,103,000.*]

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $225,811,000, including not to exceed $54,921,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except— $225,811,000

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of 1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for the inspection, investigation, or enforcement of any activity occurring on the Outer Continental Shelf which exceeds the authority granted to the Occupational Safety and Health Administration by any provision of the Outer Continental Shelf Lands Act, or the Outer Continental Shelf Lands Act Amendments of 1978.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $156,480,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed eight passenger motor vehicles for replacement only; the Secretary is authorized to accept

$156,480,000

lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $167,925,000; of which $11,435,000 shall be for expenses of revising the Consumer Price Index, together with not to exceed $37,872,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That $8,286,000 shall remain available until September 30, 1988.

$167,925,000

37,872,000 (limitation on trust fund transfer)

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including $2,408,000 for the President's Committee on Employment of the Handicapped, $103,852,000, together with not to exceed $263,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

103,852,000

263,000 (limitation on trust fund transfer)

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $139,510,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–08 and 2021–26.

139,510,000 (limitation on trust fund transfer)

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $34,833,000, together with not to exceed $6,040,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

34,833,000

6,040,000 (limitation on trust fund transfer)

SPECIAL FOREIGN CURRENCY PROGRAM

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for necessary expenses of the Department of Labor, as authorized by law, $47,000, to remain available until expended. This appropriation shall be available in addition to other appropriations to such agency for payments in foreign currencies.

47,000

[*Total, Departmental Management, $138,732,000.*]

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers' health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to January 1, 1988.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

DISAPPROVAL OF DEFERRALS

NEGATIVE SUPPLEMENTALS

The Congress disapproves the proposed deferral of $3,911,000 pertaining to the State Unemployment Insurance and Employment Service Operations appropriation as set forth in the 1987 Budget Appendix, page II-17, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

This title may be cited as the "Department of Labor Appropriations Act, 1987".

[Total, title I, Department of Labor:

[New budget (obligational) authority	*$5,665,002,000.]*
[Definite	*5,664,246,000.]*
[Indefinite	*756,000.]*
[Limitation on trust fund transfer	*2,607,664,000.]*

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, IV, VII, VIII, X, XIII, XIX, and XXI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, and title V of the Social Security Act, $1,470,763,000 of which $5,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act to private nonprofit entities which are receiving support under section 329 or 330 of that Act; of which not to exceed $750,000 to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, as amended by Public Law 99-117: *Provided,* That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on

$1,470,763,000

behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further,* That during the fiscal year, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under sections 335(c), 338C(e)(1), and 338E of that Act shall not exceed $1,000,000: *Provided further,* That the total principal amount of Federal loan insurance available under section 728 of the Public Health Service Act during fiscal year 1987 shall be granted by the Secretary of Health and Human Services without regard to any apportionment or other similar limitation.

***$1,000,000* (limitation on direct loans)**

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $20,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year no commitments for direct loans or loan guarantees shall be made.

20,000,000

[*Total, Health Resources and Services Administration, $1,490,763,000.*]

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, and XIX and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $539,067,000, of which $11,800,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training of employees of private agencies shall be made subject to reimbursement or advances to this appropriation for the full cost of such training: *Provided further,* That collections from user fees, including collections from training and reimbursements and advances for the full cost of proficiency testing of private clinical laboratories, may be credited to this appropriation: *Provided further,* That any unobligated balance of the $6,900,000 appropriated in fiscal year 1986, to remain available until September 30, 1987 for the purchase and distribution of drugs, shall remain available until expended.

539,067,000

National Institutes of Health

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,402,837,000.

$1,402,837,000

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301, title IV, and section 1105 of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $930,001,000.

930,001,000

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $117,945,000.

117,945,000

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $511,124,000.

511,124,000

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $490,233,000.

490,233,000

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $545,523,000.

545,523,000

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $570,916,000.

570,916,000

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $366,780,000.

366,780,000

NATIONAL EYE INSTITUTE

For carrying out section 301 and part F of title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $216,637,000.

216,637,000

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV, of the Public Health Service Act with respect to environmental health sciences, $209,294,000.

209,294,000

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $176,931,000.

176,931,000

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $138,713,000. $138,713,000

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $322,860,000: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants. 322,860,000

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act, with respect to nursing research, $19,000,000. 19,000,000

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $11,420,000, of which $1,934,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory. 11,420,000

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $61,838,000. 61,838,000

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $56,708,000, including purchase of not to exceed six passenger motor vehicles for replacement only. 56,708,000

BUILDINGS AND FACILITIES

For construction of, and acquisition of sites and equipment for, facilities of or used by the National Institutes of Health, $31,900,000, to remain available until expended. 31,900,000

[*Total, National Institutes of Health, $6,180,660,000.*]

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,062,365,000, of which $600,000 for renovation of government owned or leased intramural research facilities shall remain available until expended. 1,062,365,00

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

For a portion of the cost of the maintenance and operation of Saint Elizabeths Hospital in the District of Columbia, $36,353,000: *Provided,* That in fiscal year 1987 and thereafter the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropria- 36,353,000 tions made under this heading, amounts billed to Federal agencies and entities by the Secretary of Health and Human Services for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act: *Provided further,* That this amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621: *Provided further,* That the Secretary of Health and Human Services may set rates which in the aggregate do not exceed the estimated total cost of inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by title 16, sections 2315 and 2320, title 21, sections 511, 513, 522, 545, 902, and 1116, and title 24, sections 301 and 302 of the District of Columbia Code, and may bill and collect from (prospectively or otherwise) individuals, the District of Columbia and other entities for any services so provided: *Provided further,* That the Secretary of Health and Human Services may set rates which in the aggregate do not exceed the estimated total cost of inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by title 24, sections 191, 196, 211, 212, 222, 253, and 324, title 31, section 1535, and title 42, sections 249 and 251 of the United States Code, and may bill and collect (prospectively or otherwise) from individuals, and Federal agencies, and other entities for any services so provided. Amounts so collected shall be credited to the appropriation for Saint Elizabeths Hospital and shall remain available until expended.

[*Total, Alcohol, Drug Abuse and Mental Health Administration, $1,098,718,000.*]

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, and XX of the Public Health Service Act, $117,126,000, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and, in addition, amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $16,000,000 shall be available from amounts available under section 2113 of the Public Health Service Act, to carry out the National Medical Expenditure Survey: *Provided further,* That of the amounts appropriated under this heading, $100,000 shall be available for the President's Council on Health Promotion and Disease Prevention.

$117,126,000
1,050,000
(limitation on trust fund transfer)

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C., ch. 55), such amounts as may be required during the current fiscal year. $86,282,000 *(indefinite)*

[*Total, Office of the Assistant Secretary for Health, $203,408,000.*]
[*Total, Public Health Service:*
[*New budget (obligational) authority .... $9,512,616,000.*]
[*Limitation on direct loans .... 1,000,000.*]
[*Limitation on trust fund transfer .... 1,050,000.*]

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, title XIX of the Social Security Act, $19,770,000,000, to remain available until expended. 19,770,000,000

For making, after May 31, 1987, payments to States under title XIX of the Social Security Act, for the last quarter of fiscal year 1987 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1] *(indefinite)*

Payment under title XIX may be made for any quarter beginning after June 30, 1986, and before October 1, 1987, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1988, $7,100,000,000, to remain available until expended. 7,100,000,000 *(advance appropriations, fiscal year 1988)*

[*Total, Grants to States for Medicaid:*
[*New budget (obligational authority) .... $26,870,000,000.*]
[*Appropriations, fiscal year 1987 .... 19,770,000,000.*]
[*Advance appropriations, fiscal year 1988 7,100,000,000.*]

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g), 229(b) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $20,826,000,000. 20,826,000,000

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $85,396,000, together with not to exceed $1,168,520,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein: *Provided,* That in addition, $50,000,000 shall similarly be derived by transfer from said trust funds and shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates and to meet unanticipated costs of agencies or organizations with which 85,396,000 *1,168,520,000 (limitation on trust fund transfer) 50,000,000 (limitation on trust fund transfer)*

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[1] Amounts made available under this authority will be included in a table 8 to accompany the 100th Congress, 1st Session as necessary.

agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved.

[*Total, Health Care Financing Administration:*
[*New budget (obligational) authority* .... *$47,781,396,000.*]
[*Appropriations, fiscal year 1987* .... *40,681,396,000.*]
[*Advance appropriations, fiscal year 1988* *7,100,000,000.*]
[*Limitation on trust fund transfer* .... *1,218,520,000.*]

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), 229(b), and 1131(b)(2) of the Social Security Act and section 152 of Public Law 98-21, $500,555,000.

$500,555,000

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $693,437,000, to remain available until expended: *Provided,* That monthly benefits when changed shall be paid consistent with section 215(g) of the Social Security Act.

693,437,000

For making, after July 31, of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

[1] *(indefinite)*

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1988, $252,450,000, to remain available until expended.

252,450,000 *(advance appropriations, fiscal year 1988)*

[*Total, special benefits for disabled coal miners:*
[*New budget (obligational) authority* .... *$945,887,000.*]
[*Appropriations, fiscal year 1987* .... *693,437,000.*]
[*Advance appropriations, fiscal year 1988* *252,450,000.*]

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the social security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $8,230,068,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

8,230,068,000

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[1] Amounts made available under this authority will be included in a table 8 to accompany the 100th Congress, 1st Session as necessary.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary. [1] *(indefinite)*

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1988, $2,765,000,000, to remain available until expended. $2,765,000,000 *(advance appropriations, fiscal year 1988)*

[*Total, supplemental security income:*
[*New budget (obligational) authority* .... *$10,995,068,000.*]
[*Appropriations, fiscal year 1987* .... *8,230,068,000.*]
[*Advance appropriations, fiscal year 1988* *2,765,000,000.*]

ASSISTANCE PAYMENTS PROGRAM

For carrying out, except as otherwise provided, titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $7,024,398,000, to remain available until expended. 7,024,398,000

For making, after May 31 of the current fiscal year, payments to States under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act, for the last three months of the current fiscal year, for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1] *(indefinite)*

For making payments to States under titles I, IV-A and -D, X, XIV, and XVI of the Social Security Act for the first quarter of fiscal year 1988, $2,293,615,000, to remain available until expended. 2,293,615,000 *(advance appropriations, fiscal year 1988)*

[*Total, assistance payments:*
[*New budget (obligational) authority* .... *$9,318,013,000.*]
[*Appropriations, fiscal year 1987* .... *7,024,398,000.*]
[*Advance appropriations, fiscal year 1988* *2,293,615,000.*]

LOW INCOME HOME ENERGY ASSISTANCE

For carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,825,000,000. 1,825,000,000

CHILD SUPPORT ENFORCEMENT

For carrying out, except as otherwise provided, titles IV-D and XI of the Social Security Act, $599,633,000, to remain available until expended. 599,633,000

For making, after May 31 of the current fiscal year, payments to States under title IV-D of the Social Security Act, for the last three months of the current fiscal year, for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary. [1] *(indefinite)*

For making payments to States under title IV-D of the Social Security Act for the first quarter of fiscal year 1988, $187,000,000, to remain available until expended. 187,000,000 *(advance appropriations, fiscal year 1988)*

[*Total, child support enforcement:*
[*New budget (obligational) authority* .... *$786,633,000.*]
[*Appropriations, fiscal year 1987* .... *599,633,000.*]
[*Advance appropriations, fiscal year 1988* *187,000,000.*]

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,840,000,000 of which $64,700,000 for the purchase of ergonomic furniture shall remain available until September 30, 1988 and shall not be obligated prior to September 30, 1987, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments *3,840,000,000 (limitation on administrative expenses)* under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $160,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That $225,398,000 for automatic data processing and telecommunications activities shall remain available until expended: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

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[1] Amounts made available under this authority will be included in a table 8 to accompany the 100th Congress, 1st Session as necessary.

[Total, Social Security Administration:	
[New budget (obligational) authority	*$24,371,156,000.]*
[Appropriations, fiscal year 1987	*18,873,091,000.]*
[Advance appropriations, fiscal year 1988	*5,498,065,000.]*
[Limitation on administrative expenses	*3,840,000,000.]*

HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000. $2,700,000,000

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Older Americans Act of 1965, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native Americans Programs Act, chapter 8-D of title IV-A of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and developing of dependent care programs), the Head Start Act, and the Child Development Associate Scholarship Assistance Act of 1985, $2,097,635,000. 2,097,635,000

FAMILY SOCIAL SERVICES

For carrying out parts B and E of title IV and section 1110 of the Social Security Act, and title II of Public Law 95-266 (adoption opportunities), $939,567,000. 939,567,000

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $110,000,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to 110,000,000 which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

[*Total, Human Development Services, $5,847,202,000.*]

Office of Community Services

COMMUNITY SERVICES BLOCK GRANT

For carrying out the Community Services Block Grant Act, $369,851,000, of which $17,614,000 shall be for carrying out section 681(a)(2)(A), $3,570,000 shall be for carrying out section 681(a)(2)(D), $2,686,000 shall be for carrying out section 681(a)(2)(E), $5,866,000 shall be for carrying out section 681(a)(2)(F), and $1,000,000 shall be for Demonstration Partnership Grants.

$369,851,000

COMMUNITY FOOD AND NUTRITION

For carrying out the community food and nutrition programs authorized under section 681A of the Community Services Block Grant Act, $2,500,000.

2,500,000

[*Total, Office of Community Services, $372,351,000.*]

Departmental Management

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $121,819,000 together with not to exceed $27,500,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein, of which $10,000,000 shall be for grants, under the authority of section 301 of the Public Health Service Act, to continue the four projects authorized in the Department of Health and Human Services Appropriations Act, 1986, to demonstrate the delivery of health care services to victims of acquired immune deficiency syndrome, as well as for so many projects for the same purpose as the Secretary of Health and Human Services finds appropriate, and of which $4,500,000 shall be for an additional construction grant for the Mary Babb Randolph Cancer Center in West Virginia.

121,819,000
27,500,000
(limitation on trust fund transfer)

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $30,016,000 together with not to exceed $40,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

30,016,000
40,000,000
(limitation on trust fund transfer)

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $15,285,000 together with not to exceed $4,000,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

15,285,000
4,000,000
(limitation on trust fund transfer)

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $8,200,000: *Provided,* That not less than $2,200,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

8,200,000

[*Total, Departmental Management:*
[*New budget (obligational) authority* .... *$175,320,000.*]
[*Limitation on trust fund transfer* .... *71,500,000.*]

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. Funds appropriated in this Act for the National Institutes of Health shall be used to support no fewer than 6,200 new and competing research project grants.

SEC. 203. Appropriations in this Act for the Health Resources and Services Administration, the National Institutes of Health, the Centers for Disease Control, the Alcohol, Drug Abuse, and Mental Health Administration, the Office of the Assistant Secretary for Health, the Health Care Financing Administration, and Departmental Management shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed two thousand four hundred commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration and the Office of Child Support Enforcement shall be available for not to exceed $10,000 for official reception and representation expenses related to income maintenance or child support enforcement activities of the Department when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1987, by this or any other Act, may be used to pay basic pay, special pays, basic allowance for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level 1 annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts "Health Resources and Services", National Institutes of Health "Office of the Director", "Disease Control", and "Federal Subsidy for Saint Elizabeths Hospital".

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 211. The Secretary shall make available through assignment not more than 50 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1987".

[Total, title II, Department of Health and Human Services:

[New budget (obligational) authority	*$88,060,041,000.]*
[Appropriations, fiscal year 1987	*75,461,976,000.]*
[Definite	*75,375,694,000.]*
[Indefinite	*86,282,000.]*
[Advance appropriations, fiscal year 1988	*12,598,065,000.]*
[Limitation on administrative expenses	*3,840,000,000.]*
[Limitation on trust fund transfers	*1,291,070,000.]*
[Limitation on direct loans	*1,000,000.]*

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out chapter 1 of the Education Consolidation and Improvement Act of 1981, as amended, $3,944,163,000, of which $6,246,000 shall be used for purposes of section 555(d) of said Act to provide technical assistance and evaluate programs, and the remaining $3,937,917,000 shall become available on July 1, 1987, and remain available until September 30, 1988: *Provided,* That of these remaining funds, no funds shall be used for purposes of section 554(a)(1)(B), $264,524,000 shall be available for purposes of section 554(a)(2)(A), $150,170,000 shall be available for purposes of section 554(a)(2)(B), $32,616,000 shall be available for purposes of section 554(a)(2)(C) and $37,107,000 shall be available for purposes of section 554(b)(1)(D).

$3,944,163,000

For carrying out section 418A of the Higher Education Act, $7,500,000.

7,500,000

[*Total, compensatory education for the disadvantaged, $3,951,663,000.*]

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $695,000,000, of which $22,000,000 shall be for entitlements under section 2 of said Act, $10,000,000, which shall remain available until expended, shall be for payments under section 7 of said Act and $663,000,000 shall be for entitlements under section 3 of said Act of which $533,000,000 shall be for entitlements under section 3(a) of said Act: *Provided,* That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 15 per centum of entitlement, so long as the fiscal year 1987 per pupil payment does not exceed 105 per centum of the fiscal year 1986 per pupil payment: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to at least 15 per centum but less than 20 per centum of such agency's total average daily attendance shall be at 75 per centum of entitlement, except that payments on behalf of children who reside on property which is described in section 403(1)(C) shall be at 11.25 per centum of entitlement and the fiscal year 1987 local contribution rate for such agency shall not exceed 105 per centum of such agency's fiscal year 1986 local contribution rate: *Provided further,* That payment with respect to entitlements under section 3(a) to any local educational agency whose children determined eligible under section 3(a) amount to less than 15 per centum of such agency's total average daily attendance shall be ratably reduced from 100 per centum of entitlement: *Provided further,* That payments on behalf of children who reside on property

695,000,000

which is described in section 403(1)(C) of said Act shall be ratably reduced from 15 per centum of entitlement: *Provided further,* That the provisions of section 5(c) of said Act shall not apply to funds provided herein: *Provided further,* That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of $10,000 or 5 per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $22,500,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $9,250,000 shall be for awards under section 10 of said Act, $9,250,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $4,000,000 shall be for awards under sections 5 and 14(c) of said Act. $22,500,000

[*Total, School Assistance in Federally Affected Areas, (impact aid), $717,500,000.*]

SPECIAL PROGRAMS

For carrying out the consolidated programs and projects authorized under chapter 2 of the Education Consolidation and Improvement Act of 1981, as amended, $529,337,000, of which $29,337,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,700,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $1,500,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $1,000,000 to any recipient for national impact demonstration or research projects; $7,800,000 for activities authorized under subsection 583(b)(1) of said Act; $3,337,000 for programs authorized under subsection 583(b)(2) of said Act; $3,000,000 for programs authorized under subsection 583(b)(3) of said Act; and $3,000,000 for activities authorized under subsection 583(b)(4) of said Act: *Provided,* That $500,000,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988. 529,337,000

For grants to State educational agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $24,000,000. 24,000,000

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $3,500,000. 3,500,000

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $5,000,000. 5,000,000

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $2,000,000. 2,000,000

For carrying out activities authorized under Public Law 92-506, as amended, $1,700,000: *Provided,* That said sum shall become available on July 1, 1987, and shall remain available until September 30, 1988. 1,700,000

For carrying out the provisions of title VII of the Education for Economic Security Act, relating to magnet schools assistance, $75,000,000: *Provided,* That not more than $4,000,000 in the fiscal year may be paid to any single eligible local educational agency. 75,000,000

For carrying out the provisions of title II of the Education for Economic Security Act, $43,066,000 of which $39,190,060 for State grants under section 204 shall become available on July 1, 1987, and shall remain available until September 30, 1988. 43,066,000

For carrying out the provisions of title IX of Public Law 98-558, $7,177,000, to become available July 1, 1987, and to remain available until September 30, 1988. $7,177,000

[*Total, special programs,* [1] *$727,714,000.*]

BILINGUAL EDUCATION

For carrying out, to the extent not otherwise provided, title VII of the Elementary and Secondary Education Act, title VI of the Education Amendments of 1984, $173,095,000, of which $99,161,000 shall be for part A, $10,370,000 shall be for part B, and $33,564,000 shall be for part C of title VII of the Elementary and Secondary Education Act and $30,000,000 shall be for the Emergency Immigrant Education Program authorized by title VI of the Education Amendments of 1984. 173,095,000

[*Total, Office of Elementary and Secondary Education, $5,569,972,000.*]

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, as amended by S. 2294, which was presented to the President of the United States on September 26, 1986, $1,741,900,000 of which $1,338,000,000 for section 611 and $180,000,000 for section 619 shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988: *Provided,* That $50,000,000 shall be available for section 685 of said Act. 1,741,900,000

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended by H.R. 4021, as presented to the President, $1,484,758,000, of which $1,281,000,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, and $4,600,000 shall be for the Helen Keller National Center. 1,484,758,000

[*Total, Office of Special Education and Rehabilitation Services, $3,226,658,000.*]

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, and the Adult Education Act, $980,800,000 which shall become available for obligation on July 1, 1987, and shall remain available until September 30, 1988: *Provided,* That $11,000,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act including $6,000,000 for section 404 of said title: *Provided further,* That $7,500,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $6,000,000 shall be made available to carry out title III-A and $31,633,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,686,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act. 980,800,000

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, as amended, $5,196,000,000 which shall remain available until September 30, 1988: *Provided,* That amounts appropriated for Pell grants shall be available first to pay Pell grants under the July 1986 payment 5,196,000,000 schedule established by the Secretary of Education for the 1986-87 academic year under section 411(b)(3)(B)(ii) of the Higher Education Act: *Provided further,* That no funds appropriated for Pell grants and used to pay Pell grants for the 1986-87 academic year shall be available to pay any awards in excess of those provided under such July 1986 Pell grants payment schedule: *Provided further,* That other amounts for this appropriations Act shall be available under the terms and conditions included in the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1986, Public Law 99-178: *Provided further,* That of the amounts appropriated under this heading and made available for part E of title IV of the Higher Education Act of 1965, $5,000,000 shall be available for carrying out the Income Contingent Pilot Demonstration projects in S. 1965, as passed by the Senate on June 4, 1986, and shall remain available until September 30, 1988.

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[1] Includes appropriation of $36,934,000 for "Science and Mathematics Education" (see Sec. 513, p. 123, this volume)

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $3,004,000,000 to remain available until expended. $3,004,000,000

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $146,208,000, of which up to $20,000,000 for part C of title III of said Act shall remain available expended: *Provided,* That $50,741,000 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities. 146,208,000

For carrying out subpart 4 of part A of title IV; subpart 2 of part D of title V; titles VI and VIII, parts B, C, E, and F of title IX; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended by S. 1965 as passed the Senate on September 25, 1986; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended by section 502 of S. 1965 as passed the Senate on September 25, 1986; and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; $268,420,000: *Provided,* That $1,000,000 of the amount appropriated under this paragraph and available for part A of title VI of the Higher Education Act of 1965 shall be available for a grant to the Bologna Center of the School of Advanced International Studies of the Johns Hopkins University. 268,420,000

For carrying out subpart 6 of Part A of title IV, subpart 1 of part D of title V, part D of title VII, part D of title XI ($2,000,000), and section 771 ($2,000,000) of the Higher Education Act of 1965, as amended by S. 1965 as passed the Senate on September 25, 1986; title II of H.R. 2787 as passed the Senate on June 25, 1986, relating to the Technology Transfer Institute ($5,000,000); H.R. 4244 as passed the Senate on September 30, 1986 ($8,000,000); and H.R. 3598 as passed the House on November 4, 1981 and amended by part I of title XIII of said S. 1965 ($1,000,000); $64,500,000 to remain available until expended: *Provided,* That $8,000,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)). 64,500,000

[*Total, higher education, $479,128,000.*]

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

For the payment of principal and interest, including interest insufficiencies, as authorized by the Department of Health, Education, and Welfare Appropriation Act, 1968, on account of outstanding beneficial interests or participations held by the Government

National Mortgage Association, as trustee, on behalf of the Department of Education, and issued pursuant to the Participation Sales Act of 1966 (section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c))), and for the payment of interest to the Treasury as required by title VII, part C, section 733(b)(2) of the Higher Education Act, as amended (20 U.S.C. 1132d-2(b)(2)), and for the payment of other operating costs of the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2), $19,205,000, to remain available until expended. The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1986, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

$19,205,000

COLLEGE HOUSING LOANS

The aggregate amount of commitments for loans made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749), for the fiscal year 1987 shall not exceed the total of loan repayments and other income available during such period, less operating costs. Payments of interest insufficiencies for the fiscal year 1987 as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations issued pursuant to the Participation Sales Act of 1966 (section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717(c))) shall be made from the fund established pursuant to title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749-1749c) using loan repayments and other income available during such fiscal year. During the fiscal year 1987 and within the resources and authority available, gross commitments for the principal amount of direct loans shall be $60,000,000.

60,000,000
(limitation on
direct loans)

[*Total, Office of Postsecondary Education, $8,698,333,000.*]

EDUCATIONAL RESEARCH AND STATISTICS

For necessary expenses to carry out sections 405 and 406 of the General Education Provisions Act, as amended, $63,578,000: *Provided*, That $4,000,000 of the sums appropriated shall be used for carrying out a rural education program by the nine regional laboratories.

63,578,000

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C., ch. 16), and title II, part B except section 224, and part C of the Higher Education Act, notwithstanding the provisions of section 221, $132,500,000: *Provided*, That $22,500,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended.

132,500,000

[*Total, Office of Educational Research and Improvement, $196,078,000.*]

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101–106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,500,000. $5,500,000

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For carrying out the National Technical Institute for the Deaf Act (20 U.S.C. 681 et seq.), $32,000,000. 32,000,000

GALLAUDET COLLEGE

For carrying out the Model Secondary School for the Deaf Act (80 Stat. 1027) and for the partial support of Gallaudet College authorized by the Act of June 18, 1954 (68 Stat. 265), including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $62,000,000. 62,000,000

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $170,230,000, of which $2,000,000 shall be for an endowment matching grant in accordance with the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended. 170,230,000

[*Total, Special Institutions, $269,730,000.*]

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $234,692,000: *Provided,* That $500,000 shall be available for carrying out the National Summit Conference on Education Act of 1984. 234,692,000

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $43,000,000. 43,000,000

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $16,378,000. 16,378,000

[*Total, Departmental Management, $294,070,000.*]

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet College shall be subject to audit by the Secretary of Education.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 307. Section 402(c) of the Housing Act of 1950 is amended by striking out in clause (9) "October 1, 1986" and inserting in its place "October 1, 1987".

This title may be cited as the "Department of Education Appropriations Act, 1987".

[*Total, title III, Department of Education:*
[*New budget (obligational) authority* .... *$19,235,641,000.*]
[*Limitation on direct loans* .... *60,000,000.*]

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for ACTION to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $153,287,000, of which $19,000,000 shall be available to carry out title I, part A of said Act, and of which $2,000,000 shall be available for the VISTA Literacy Corps. $153,287,000

Commission on Education of the Deaf

SALARIES AND EXPENSES

For expenses necessary for the Commission on Education of the Deaf as authorized by section 301 of the Education of the Deaf Act of 1986, $750,000, to remain available until expended. $750,000

Corporation for Public Broadcasting

PUBLIC BROADCASTING FUND

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1989, $228,000,000: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex. 228,000,000 *(advance appropriations, fiscal year 1989)*

Federal Mediation and Conciliation Service

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93–360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $23,523,000. 23,523,000

Federal Mine Safety and Health Review Commission

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $3,785,000. 3,785,000

National Afro-American History and Culture Commission

NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

Funds appropriated for the "National Center for the Study of Afro-American History and Culture" in the Departments of Labor, Health and Human Services and Education, and related agencies Appropriations Act, 1986 shall remain available until expended.

National Commission on Libraries and Information Science

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345), $660,000. 660,000

National Council on the Handicapped

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $850,000. $850,000

National Labor Relations Board

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $129,960,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes. 129,960,000

National Mediation Board

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,401,000. 6,401,000

Occupational Safety and Health Review Commission

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission, $5,750,000. 5,750,000

Physician Payment Review Commission

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $1,000,000 to remain available until September 30, 1988, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund. *1,000,000 (trust fund limitation)*

Prospective Payment Assessment Commission

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,421,000 to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds. *3,421,000 (trust fund limitation)*

Railroad Retirement Board

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $380,000,000, all of which shall be credited to the account in 12 ap- 380,000,000 proximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000 which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76: *Provided,* That these funds shall remain available through September 30, 1988.

$3,100,000

LIMITATION ON ADMINISTRATION

For expenses necessary for the Railroad Retirement Board, $57,756,000 to be derived from the railroad retirement accounts: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 1,217 full-time equivalent employees: *Provided further,* That $500,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

57,756,000 (trust fund limitation)

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $14,942,000 shall be apportioned for fiscal year 1987 from moneys credited to the railroad unemployment insurance administration fund, and of this amount $2,106,000 shall be derived from contributions credited to the railroad unemployment insurance account and shall be credited to the railroad unemployment insurance administration fund as authorized by section 11(a)(iv) of the Railroad Unemployment Insurance Act: *Provided,* That such portion of the foregoing amount as may be necessary shall be available for the payment of personnel compensation and benefits for not less than 336 full-time equivalent employees.

14,942,000 (trust fund limitation)

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory, and review activities, as authorized by section 418 of Public Law 98-76 not more than $1,267,000, to be derived from the railroad retirement accounts and rail unemployment insurance administration fund.

1,267,000 (trust fund limitation)

[*Total, Railroad Retirement Board, $383,100,000.*]

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $34,022,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

34,022,000 *(trust fund)*

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $16,241,000, to remain available until expended. $16,241,000 *(trust fund)*

[*Total, Soldiers' and Airmen's Home, trust funds, $50,263,000.*]

UNITED STATES INSTITUTE OF PEACE

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $625,000. 625,000

[*Total, title IV, Related Agencies:*

[*New budget (obligational) authority*	*$986,954,000.*]
[*Appropriations, fiscal year 1987*	*758,954,000.*]
[*Advance appropriations, fiscal year 1989*	*228,000,000.*]
[*Trust fund limitations*	*78,386,000.*]

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 512. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretaries of Labor, Health and Human Services, and Education, and medical officers and other health personnel on out-patient medical service who are exempted from such limitations under 31 U.S.C. 1344.

SEC. 513. Amounts available under this Act for carrying out the provisions of title II of the Education for Economic Security Act are hereby increased by $36,934,000. [1]($36,934,000)

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education and related agencies Appropriations Act, 1987".

LEGISLATIVE HISTORY—H.R. 5233

HOUSE REPORTS: No. 99-711 (Comm. on Appropriations), No. 99-960 (Comm. of Conference), and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-408 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 24, reported in the House.
July 31, considered and passed House.
Aug. 15, reported in the Senate.
Sept. 10, considered and passed Senate, amended.
Oct. 2, conference report filed in the House (H. Report No. 99-960).
Oct. 18, included in continuing resolution (H.J. Res. 738).

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[1] Included in total for "Special Programs" on p. 114, this volume.

Grand total:		
New budget (obligational) authority	$113,947,638,000	
Appropriations, fiscal year 1987	(101,121,573,000)	
Definite	(101,034,535,000)	
Indefinite	(87,038,000)	
Advance appropriation, fiscal year 1988	(12,598,065,000)	
Advance appropriation, fiscal year 1989	(228,000,000)	
Limitation on administrative expenses	*(3,840,000,000)*	
Limitation on trust fund transfers	*(3,898,734,000)*	
Limitation on direct loans	*(61,000,000)*	
Trust fund limitations	*(78,386,000)*	
Total, new budget (obligational) authority, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 1987		[1] $113,947,638,000

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(i) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Departments of Labor, Health and Human Services, and Education for such fiscal year:

Permanent appropriations:	
Federal Funds (pp. 3021-3022)	$17,768,352,000
Trust Funds (pp. 3036-3037, and 3039)	343,606,141,000
Appropriations in legislative acts:	
Federal disability insurance trust fund, trust funds (P.L. 99-509 (p. 3165)	−10,000,000
Federal hospital insurance trust fund, trust funds (P.L. 99-272 (p. 3165)	246,000,000
Federal hospital insurance trust fund, trust funds (P.L. 99-509 (p. 3165)	347,000,000
Federal old-age and survivors insurance trust fund, trust funds (P.L. 99-335) (p. 3165)	390,000,000
Federal old-age and survivors insurance trust fund, trust funds (P.L. 99-509) (p. 3165)	223,000,000
Federal supplementary medical insurance trust fund, trust funds (P.L. 99-272) (p. 3165)	−565,000,000
Federal supplementary medical insurance trust fund, trust funds (P.L. 99-509) (p. 3165)	−91,000,000
Railroad social security equivalent benefit account, trust funds (P.L. 99-509) (p. 3165)	−2,000,000
Advance appropriations for fiscal year 1987 made during previous sessions of Congress:	
99th Cong., 1st session:	
Health Care Financing Administration: Grants to States for Medicaid (p. 233, 1984-1985 volume)	[2] *(6,500,000,000)*
Social Security Administration:	
Assistance payments program (p. 234, 1984-1985 volume)	[2] *(2,193,754,000)*
Child support enforcement (p. 234, 1984-1985 volume)	[2] *(170,750,000)*
Special benefits for disabled coal miners (p. 234, 1984-1985 volume)	[2] *(270,000,000)*
Supplemental security income program (p. 234, 1984-1985 volume)	[2] *(2,339,250,000)*
Department of Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987: Food and Drug Administration (pp. 214-215)	438,309,000
Department of HUD-Independent Agencies Appropriations Bill, 1987: Office of Consumer Affairs (p. 72)	1,750,000
Department of the Interior and Related Agencies Appropriations Bill, 1987:	
Department of Health and Human Services: Indian Health Services (pp. 447-449)	907,364,000
Department of Education: Indian Education (p. 449)	64,036,000

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[1] The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 1987 (H.R. 5233) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 93, this volume).

[2] Also included under "Permanent appropriations, Federal funds".

Fourth Further Continuing Appropriations, 1987 (P.L. 99-591):		
Department of Labor: Departmental management (p. 526)	$3,000,000	
Department of Health and Human Services:		
Alcohol, drug abuse and mental health (p. 526)	262,000,000	
Indian health services (p. 526)	16,200,000	
Indian health facilities (p. 526)	5,500,000	
Refugee and entrant assistance (p. 512)	361,633,000	
Department of Education: Special programs (pp. 513 and 526)	207,177,000	
Subtotal, additions (net)		$364,179,462,000

Deduct advance appropriations for fiscal years 1988 and 1989 and amounts transferred to the General Government and Defense—Civil functions totals:

Advance appropriations for fiscal year 1988:		
Department of Health and Human Services:		
Health Care Financing Administration: Grants to States for Medicaid (p. 105)	$7,100,000,000	
Social Security Administration:		
Special benefits for disabled coal miners (p. 106)	252,450,000	
Supplemental security income program (p. 107)	2,765,000,000	
Assistance payments program (p. 107)	2,293,615,000	
Child support enforcement (p. 107)	187,000,000	
Advance appropriation for fiscal year 1989:		
Corporation for Public Broadcasting (p. 119)	228,000,000	
General Government:		
ACTION (p. 118)	153,287,000	
Commission on Education of the Deaf (p. 119)	750,000	
Federal Mediation and Conciliation Service (p. 119)	23,523,000	
Federal Mine Safety and Health Review Commission (p. 119)	3,785,000	
National Commission on Libraries and Information Science (p. 119)	660,000	
National Council on the Handicapped (p. 120)	850,000	
National Labor Relations Board (p. 120)	129,960,000	
National Mediation Board (p. 120)	6,401,000	
Occupational Safety and Health Review Commission (p. 120)	5,750,000	
Railroad Retirement Board:		
Dual benefits payments account (pp. 120-121)	380,000,000	
Payments to Railroad Retirement Accounts (p. 121)	3,100,000	
United States Institute of Peace (p. 122)	625,000	
Defense—Civil: Soldiers' and Airmen's Home (pp. 121-122)	50,263,000	
Subtotal, deductions		−13,585,019,000
Grand total, Departments of Labor, Health and Human Services, and Education (net)		[1] 464,542,081,000

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[1] The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 1987 (H.R. 5233) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 93, this volume).

LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5203

[NOTE.—The following bill, H.R. 5203, was enrolled when the conference report was filed in the House on August 15, 1986. The conference report (House Report No. 99-805) did not advance in the legislative process. Programs normally funded in this bill have been provided for in the continuing resolution, Public Law 99-500 and Public Law 99-591. Section 101(j) of the continuing resolution provided such sums as may be necessary for programs, projects, or activities provided for in the Legislative Branch Appropriations Bill, 1987 (H.R. 5203), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report No. 99-805), filed in the House of Representatives on August 15, 1986, as if such Act had been enacted into law. (See p. 458 for Sec. 101(j) of Public Law 99-591 and pp. 3138-3143 for the table VIII showing estimates and funding levels by appropriation account).]

A BILL

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Priscilla S. East, widow of John P. East, late a Senator from North Carolina, $75,100. $75,100

MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000. 60,000

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000. $56,000

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such leader, in all $20,000. 20,000

[*Total, expense allowances, $76,000.*]

[*Total, mileage and expense allowances, Vice President and Senators, $136,000.*]

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $177,435,714 which shall be paid from this appropriation without regard to the below limitations, as follows: [1]177,435,714

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,112,000. (1,112,000)

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $149,000. (149,000)

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,190,000. [2](1,190,000)

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $418,000. (418,000)

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $540,500 for each such committee; in all, $1,081,000. (1,081,000)

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $262,000. (262,000)

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $90,000. (90,000)

OFFICE OF THE SECRETARY

For Office of the Secretary, $6,986,714. (6,986,714)

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[1] Senate floor amendment 2727 increased the account "Offices of Majority and Minority Leaders" by $100,000 but did not increase the total for "Salaries, Officers and Employees". Therefore, amounts under "Salaries, Officers and Employees" add to $177,535,714, however, the total appropriation is limited to $177,435,714 (see footnote 2).

[2] Includes $100,000, added by Senate Floor Amendment No. 2727, to be absorbed from within the total account "Salaries, Officers and Employees."

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $104,030,000. ($104,030,000)

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $41,172,000. (41,172,000)

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $879,000. (879,000)

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $20,166,000. (20,166,000)

[*Total, salaries, officers and employees,* [1] *$177,435,714.*]

Office of the Legislative Counsel of the Senate

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,460,900. 1,460,900

Office of Senate Legal Counsel

For salaries and expenses of the Office of Senate Legal Counsel, $575,000. 575,000

Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000. 12,000

Contingent Expenses of the Senate

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $974,000 for each such committee; in all, $1,948,000. 1,948,000

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $52,177,000. 52,177,000

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985, $325,000. 325,000

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300. 666,300

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[1] Senate floor amendment 2727 increased the account "Offices of Majority and Minority Leaders" by $100,000 but did not increase the total for "Salaries, Officers and Employees". Therefore, amounts under "Salaries, Officers and Employees" add to $177,535,714, however, the total appropriation is limited to $177,435,714 (see footnote 2 on p. 128).

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $62,420,000: *Provided,* That of the amounts appropriated under this head in the Supplemental Appropriations Act, 1985 (Public Law 99-88), $2,200,000 shall remain available until September 30, 1987. $62,420,000 2,200,000 *(reappropriation)*

MISCELLANEOUS ITEMS

For miscellaneous items, $10,314,000. 10,314,000

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000. 13,000

[*Total, contingent expenses of the Senate, $130,063,300.*]

[*Total, Senate, $309,758,014.*]

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased Members of Congress

For payment to Grace Addabbo, widow of Joseph P. Addabbo, late a Representative from the State of New York, $75,100. 75,100

For payment to Mary Lou O'Brien, widow of George M. O'Brien, late a Representative from the State of Illinois, $75,100. 75,100

[*Total, gratuities, deceased Members, $150,200.*]

Mileage of Members

For mileage of Members, as authorized by law, $210,000. 210,000

House Leadership Offices

For salaries and expenses, as authorized by law, $3,357,000, including: Office of the Speaker, $775,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $688,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $767,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $603,000, including $1,000 for official expenses of the Majority Whip and not to exceed $145,540 for the Chief Deputy Majority Whip; Office of the Minority Whip, $524,000, including $1,000 for official expenses of the Minority Whip and not to exceed $76,840 for the Chief Deputy Minority Whip. 3,357,000

Members' Clerk Hire

For staff employed by each Member in the discharge of his official and representative duties, $170,186,000. 170,186,000

Committee Employees

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $48,000,000. 48,000,000

Committee on the Budget (Studies)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000. 329,000

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $48,311,000. $48,311,000

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $137,928,000, including: Official Expenses of Members, $79,300,000; supplies, materials, administrative costs and Federal tort claims, $14,536,000; furniture and furnishings, $1,475,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $750,000; Government contributions to employees' life insurance fund, retirement fund, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $40,695,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000. 137,928,000

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

[*Total, contingent expenses of the House, $186,239,000.*]

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000. 4,300,000

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $51,136,000, including: Office of the Clerk, $13,825,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $20,595,000, of which $1,896,000 shall be available only for adjustments in pay levels for the Capitol Police, as approved by the Committee on House Administration; Office of the Doorkeeper, including overtime, as authorized by law, $6,992,000; Office of the Postmaster, $2,278,000, including $46,722 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,278 per annum each; Office of the Chaplain, $73,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $634,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $226,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $844,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $2,700,000; six minority employees, $434,000; the House Democratic Steering Committee and Caucus, $700,000; the House Republican Conference, $700,000; and Other Authorized Employees, $1,135,000. 51,136,000

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

Administrative Provisions

Sec. 101. Of the amounts appropriated in fiscal year 1987 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

Sec. 102. The provisions of H. Res. 320, approved November 14, 1985, establishing one additional position on the Capitol Police Force shall be permanent law with respect thereto.

Sec. 103. The provisions of H. Res. 21, approved December 11, 1985, establishing a Congressional child care center shall be permanent law with respect thereto.

Sec. 104. (a) The Clerk of the House of Representatives may dispose of used equipment of the House of Representatives, by trade-in or sale, directly or through the General Services Administration. Any direct disposal under the preceding sentence shall be in accordance with normal business practice and shall be at fair market value. Receipts from disposals under the first sentence of this subsection (together with receipts from sale of transcripts, waste paper and other items provided by law, and receipts for missing or damaged equipment) shall be deposited in the Treasury for credit to the appropriate account under the appropriation for "ALLOWANCES AND EXPENSES" under the heading "CONTINGENT EXPENSES OF THE HOUSE", and shall be available for expenditure in accordance with applicable law. As used in this subsection, the term "used equipment" means such used or surplus equipment (including furniture and motor vehicles) as the Committee on House Administration of the House of Representatives may prescribe by regulation.

(b) the proviso in the matter under the center heading "HOUSE OF REPRESENTATIVES" and the center subheading "OFFICIAL REPORTERS TO COMMITTEES" in the first section of the Act entitled "An Act making appropriations for the Legislative Branch for the fiscal year ending June 30, 1948, and for other purposes", approved July 17, 1947 (2 U.S.C. 84b), is amended by striking out "as 'Miscellaneous receipts'".

(c) This section and the amendment made by this section shall take effect on October 1, 1986.

[*Total, House of Representatives, $463,907,200.*]

JOINT ITEMS

For joint committees, as follows:

Contingent Expenses of the Senate

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $2,736,000. $2,736,000

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $919,000. 919,000

[*Total, contingent expenses of the Senate, $3,655,000.*]

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,159,000, to be disbursed by the Clerk of the House. $4,159,000

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed eleven assistants on the basis heretofore provided for such assistance; and (5) $869,500 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,298,000, to be disbursed by the Clerk of the House. 1,298,000

CAPITOL POLICE

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $80 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,701,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1987 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department. 1,701,000

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $91,423,000, to be disbursed by the Clerk of the House. 91,423,000

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $880,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than twenty-eight individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two addi- 880,000 tional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

Statement of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the Ninety-ninth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills as required by law, $20,000, to be paid to the persons designated by the chairman of such committees to supervise the work. $20,000

[*Total, Joint Items, $103,136,000.*]

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98-21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), $15,532,000: *Provided,* That none of the funds in the Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99-190. 15,532,000

BIOMEDICAL ETHICS BOARD

Salaries and Expenses

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99-158), $150,000. 150,000

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $17,251,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* 17,251,000

That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $5,262,000. $5,262,000

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000. —

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $50,000. 50,000

[*Total, Office of the Architect of the Capitol, $5,312,000.*]

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; to hereafter incur expenses authorized by the Act of December 13, 1973 (87 Stat. 704); for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $12,068,000. 12,068,000

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,182,000. 3,182,000

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of the Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $25,197,000, of which $5,781,000 shall remain available until expended. 25,197,000

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $25,227,000, of which $4,991,000 shall remain available until expended. 25,227,000

Capitol Power Plant

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,567,000: *Provided,* That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1987. $24,567,000

[*Total, Capitol buildings and grounds, $90,241,000.*]

[*Total, Architect of the Capitol (except items in title II), $95,553,000.*]

LIBRARY OF CONGRESS

Congressional Research Service

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $39,602,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. 39,602,000

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); and printing and binding of Government publications authorized by law to be distributed to Members of Congress, $62,000,000: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agricutlure (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be avail- 62,000,000 able for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriation Act, 1987".

[*Total, title I, Congressional Operations:*
[*New budget (obligational) authority* .... *$1,106,889,214.*]
[*Appropriations* .... *1,104,689,214.*]
[*Reappropriation* .... *2,200,000.*]

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,062,000. $2,062,000

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center and the American Television and Radio Archives in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $137,039,000, of which not more than $4,700,000 shall be derived from collections credited to this appropriation during fiscal year 1987 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $4,700,000: *Provided further,* That, of the total amount appropriated, $4,516,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

137,039,000
−4,700,000
(receipts)

[*Net total, salaries and expenses, $132,339,000.*]

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $17,302,000, of which not more than $6,500,000 shall be derived from collections credited to this appropriation during fiscal year 1987 under 17 U.S.C. 708(c), and not more than $927,000 shall be derived from collections during fiscal year 1987 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,427,000.

17,302,000
−7,427,000
(receipts)

[*Net total, Copyright Office, $9,875,000.*]

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $35,996,000.	$35,996,000

COLLECTION AND DISTRIBUTION OF LIBRARY MATERIALS

(SPECIAL FOREIGN CURRENCY PROGRAM)

For necessary expenses for carrying out the provisions of section 104(b)(5) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704), to remain available until expended, $390,000, of which $293,000 shall be available only for payments in any foreign currencies owed to or owned by the United States which the Treasury Department shall determine to be excess to the normal requirements of the United States.	390,000

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,070,000, of which $3,425,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.	5,070,000

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390, of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

[*Total, Library of Congress (except Congressional Research Service) (net), $183,670,000.*]

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $6,080,000, of which $265,000 shall remain available until expended.	6,080,000

COPYRIGHT ROYALTY TRIBUNAL

Salaries and Expenses

For necessary expenses of the Copyright Royalty Tribunal, $617,000, of which $494,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

$617,000
−494,000
(receipts)

[*Net total, Copyright Royalty Tribunal, $123,000.*]

GOVERNMENT PRINTING OFFICE

Printing and Binding

For printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $10,700,000: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

10,700,000

Office of Superintendent of Documents

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs; $23,634,000, of which $1,378,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided,* That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

23,634,000
−1,378,000
(receipts)

[*Net total, Office of Superintendent of Documents, $22,256,000.*]

Government Printing Office Revolving Fund

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further,* That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 5,287 workyears.

[*Total, Government Printing Office (except Congressional printing and binding) (net), $32,956,000.*]

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $304,910,000: *Provided,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further,* That this appropriation shall be available for the expenses of plan-

$304,910,000

ning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the U.S. General Accounting Office in Washington, D.C., in 1992.

RAILROAD ACCOUNTING PRINCIPLES BOARD

Salaries and Expenses

For salaries and expenses of the Railroad Accounting Principles Board, $600,000, to be expended in accordance with the provisions of H.R. 4439, 98th Congress, as passed by the House of Representatives on February 7, 1984. $600,000

[*Total, title II, Other Agencies, $530,401,000.*]

TITLE III—GENERAL PROVISIONS

Sec. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration.

Sec. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Sec. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 305. (a) Upon enactment into law of this Act, the Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. The last sentence of 44 U.S.C. 1719 is amended to read: "The printing, binding, and distribution costs of any publications distributed in accordance with this section shall be charged to appropriations provided the Superintendent of Documents for that purpose.".

SEC. 307. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one "program, project, and activity".

This Act may be cited as the "Legislative Branch Appropriations Act, 1987".

LEGISLATIVE HISTORY—H.R. 5203

HOUSE REPORTS: No. 99-693 (Comm. on Appropriations), No. 99-805 (Comm. of Conference), and No. 99-1005 (Comm. of Conference, H.J. Res. 738).

SENATE REPORT No. 99-384 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 132 (1986):
July 17, reported in the House.
July 29, considered and passed House.
Aug. 7, reported in the Senate.
Aug. 13, considered and passed Senate, amended.
Aug. 15, conference report filed in the House (H. Report No. 99-805).
Oct. 18, included in continuing resolution (H.J. Res. 738).

Grand total:		
Title I, Congressional Operations	$1,106,889,214	
Appropriations	(1,104,689,214)	
Reappropriation	(2,200,000)	
Title II, Other Agencies	530,401,000	
Total, new budget (obligational) authority, Legislative Branch Appropriations Bill, 1987		[1] $1,637,290,214

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(j) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Legislative Branch for such fiscal year:

Permanent appropriations:		
Federal funds (p. 3017)	$159,975,000	
Trust funds (p. 3033)	8,754,000	
Subtotal, additions		168,769,000
Grand total, Legislative Branch		[1] 1,806,019,214

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[1] The Legislative Branch Appropriations Bill, 1987 (H.R. 5203), was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 127, this volume).

MILITARY CONSTRUCTION APPROPRIATION BILL, 1987

99th Congress, H.R. 5052

[NOTE.—The Military Construction Appropriation Bill, 1987 (H.R. 5052), was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on June 19, 1986. The bill passed the House on June 25, 1986, and was subsequently reported by the Senate Committee on Appropriations on August 5, 1986, and passed the Senate, amended on August 13, 1986. The bill did not advance in the legislative process. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(k) of Public Law 99-500, approved October 18, 1986, and Sec. 101(k) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 458-466 for text of Sec. 101(k) of Public Law 99-591, and pp. 3144-3145 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5052

HOUSE REPORTS: No. 99-648 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-368 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
    June 19, reported in the House.
    June 25, considered and passed House.
    Aug. 5, reported in the Senate.
    Aug. 13, considered and passed Senate, amended.
    Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(k) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:		
Department of Defense		$784,813,000
Department of the Army:		
Definite appropriations	$3,085,346,000	
Rescission	−36,400,000	
Portion applied to debt reduction	−7,646,000	
Advance appropriations, 1988	221,000,000	
Advance appropriations, 1989	214,000,000	3,476,300,000
Department of the Navy:		
Definite appropriations	2,129,908,000	
Rescission	−25,800,000	
Portion applied to debt reduction	−8,613,000	2,095,495,000
Department of the Air Force:		
Definite appropriations	2,265,775,000	
Rescission	−24,700,000	
Portion applied to debt reduction	−6,909,000	2,234,166,000
Total, new budget (obligational) authority (all definite appropriations), Military Construction Appropriation Bill, 1987 (net)		[1] $8,590,774,000

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[1] The Military Construction Appropriation Bill, 1987 (H.R. 5052) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note," above).

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1987

99th Congress, H.R. 5205

[Note.—The following bill, H.R. 5205, was enrolled when the conference report was filed in the House on October 7, 1986. The conference report (House Report No. 99-976) did not advance in the legislative process. Programs normally funded in this bill have been provided for in the continuing resolution, Public Law 99-500 and Public Law 99-591. Section 101(l) of the continuing resolution makes available such sums as may be necessary for programs, projects, or activities provided for in the Department of Transportation and Related Agencies Appropriation Bill, 1987 (H.R. 5205), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report No. 99-976), filed in the House of Representatives on October 7, 1986, as if such Act had been enacted into law except as it relates to amendment number 126 (section 331). (See p. 478 for Sec. 101(l) of Public Law 99-591 and pp. 3146-3150 for the table VIII showing estimates and funding levels by appropriation account.)]

A BILL

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1987, and for other purposes, namely:**

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and Expenses

**For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as
the Secretary may determine; $950,000 for the Immediate Office of $950,000
the Secretary, $470,000 for the Immediate Office of the Deputy Sec- 470,000
retary, $5,300,000 for the Office of the General Counsel, $7,462,000 5,300,000
for the Office of the Assistant Secretary for Policy and Internation- 7,462,000
al Affairs, $2,090,000 for the Office of the Assistant Secretary for 2,090,000
Budget and Programs, $2,475,000 for the Office of the Assistant 2,475,000
Secretary for Governmental Affairs, $21,930,000 for the Office of 21,930,000
the Assistant Secretary for Administration, $1,400,000 for the 1,400,000
Office of the Assistant Secretary for Public Affairs, $750,000 for the 750,000
Executive Secretariat, $390,000 for the Contract Appeals Board, 390,000
$1,260,000 for the Office of Civil Rights, $478,000 for the Office of 1,260,000
Commercial Space Transportation, $1,750,000 for the Office of Es- 478,000
1,750,000**

sential Air Service, $565,000 for Regional Representatives, and $3,730,000 for the Office of Small and Disadvantaged Business Utilization, of which $3,000,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

$565,000
3,730,000

[*Subtotal, Salaries and Expenses, $51,000,000.*]

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $3,999,000, of which $650,000 shall be derived from unobligated balances of "Salaries and expenses".

3,349,000
650,000
(by transfer)

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $65,500,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

65,500,000
(limitation on working capital fund)

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $30,000,000, to remain available until expended.

30,000,000

[*Total, Office of the Secretary, $84,349,000.*]

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; and recreation and welfare, $1,755,000,000, of which $15,000,000 shall be expended from the Boat Safety Account: *Provided*, That, of the funds available under this head, not less than $372,983,000 shall be available for drug enforcement activities: *Provided further*, That the number of aircraft on hand at any one time shall not exceed two hundred and ten, exclusive of planes and parts stored to meet future attrition: *Provided further*, That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation.

[1] 1,755,000,000

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[1] In addition, $75,000,000 is available from "Operation and Maintenance, Navy," and $200,000,000 is provided for "Coastal Defense Augmentation" in Department of Defense Appropriations Bill, 1987 (see pp. 270 and 278, this volume). Excludes $39,000,000 appropriated under Title II, Chapter V (Omnibus Drug Supplemental Appropriations Act, 1987) of Public Law 99-591 (see p. 527, this volume).

Acquisition, Construction, and Improvements

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1991, $209,000,000: *Provided*, That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further*, That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further*, That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further*, That the requirements for such written warranties shall not cover combat damage.

[1] $209,000,000

Retired Pay

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $364,000,000.

364,000,000

Reserve Training

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $64,400,000.

64,400,000

Research, Development, Test, and Evaluation

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, $20,000,000, to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources and foreign countries, for expenses incurred for research, development, testing, and evaluation.

20,000,000

Offshore Oil Pollution Compensation Fund

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), $1,000,000, to be derived from the Offshore Oil Pollution Compensation Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1987 for the "Offshore Oil Pollution Compensation Fund".

1,000,000

(indefinite borrowing authority)

60,000,000 (limitation on obligations)

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[1] Excludes $89,000,000 appropriated under Title II, Chapter V (Omnibus Drug Supplemental Appropriations Act, 1987) of Public Law 99-591 (see p. 527, this volume).

DEEPWATER PORT LIABILITY FUND

For necessary expenses to carry out the provisions of section 18 of the Deepwater Port Act of 1974 (Public Law 93-627), $1,000,000, to be derived from the Deepwater Port Liability Fund and to remain available until expended. In addition, to the extent that available appropriations are not adequate to meet the obligations of the Fund, the Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary: *Provided*, That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1987 for the "Deepwater Port Liability Fund".

$1,000,000

(indefinite borrowing authority)

50,000,000 (limitation on obligations)

BOAT SAFETY

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1987 for recreational boating safety assistance: *Provided further*, That no obligations may be incurred for the improvement of recreational boating facilities.

30,000,000 (liquidation of contract authorization)

30,000,000 (limitation on obligations)

[*Total, Coast Guard,* [1]*$2,414,400,000.*]

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $34,500,000.

34,500,000

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $2,783,000,000, of which not to exceed $621,168,000 shall be derived from the Airport and Airway Trust Fund: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further*, That, at a minimum, the air traffic controller on-board employment level shall be 15,000 by September 30, 1987: *Provided further*, That none of these funds shall be available for new applicants for the second career training program or for a pilot test of con-

2,783,000,000

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[1] Excludes $128,000,000 appropriated for Coast Guard under Title II, Chapter V (Omnibus Drug Supplemental Appropriations Act, 1987) of Public Law 99-591 (see p. 527, this volume).

tractor maintenance: *Provided further*, That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance workforce if it is determined to be essential for the safe operation of the air traffic control system: *Provided further*, That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1986" and inserting "December 31, 1987" in lieu thereof: *Provided further*, That section 8344(h) of title V, United States Code, is amended by striking "April 1, 1985" in paragraph (2) and inserting "April 1, 1986" in lieu thereof: *Provided further*, That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $10,000,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1987, for the purpose of funding such employment: *Provided further*, That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives.

$10,000,000
(by transfer)

[*Subtotal, Headquarters Administration and Operations, $2,817,500,000.*]

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1991, $804,584,000 together with $1,914,000 to be derived from unobligated balances of "Research, engineering and development (Airport and Airway Trust Fund), Center for Research and Training in Information-based Aviation and Transportation Management": *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further*, That of the funds available under this head, $10,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs; and $3,914,000 shall be available to construct an experimental computer-based airway and aviation management facility at the Center for Research and Training in Information-based Aviation and Transportation Management at Barry University.

804,584,000
1,914,000
(by transfer)

Research, Engineering, and Development (Airport and Airway Trust Fund)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301–1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $141,700,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

$141,700,000

Grants-in-Aid for Airports (Liquidation of Contract Authorization) (Airport and Airway Trust Fund)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91–258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $860,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,000,000,000 in fiscal year 1987 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982.

860,000,000
(liquidation of contract authorization)
1,000,000,000
(limitation on obligations)

Operation and Maintenance, Metropolitan Washington Airports

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally-owned civil airports in the vicinity of the District of Columbia, including purchase of six passenger motor vehicles for police use, for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, $35,000,000: *Provided*, That there may be credited to this appropriation funds received from air carriers, concessionaires, and non-Federal tenants sufficient to cover utility and fuel costs that are in excess of $6,682,000: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally-owned civil airports.

35,000,000

Construction, Metropolitan Washington Airports

For necessary expenses for construction at the federally-owned civil airports in the vicinity of the District of Columbia, $7,000,000, to remain available until September 30, 1989: *Provided*, That the Federal Aviation Administration shall submit to Congress by March 31, 1987, fully coordinated five-year master plans for capital development at Washington National and Washington Dulles International Airports.

7,000,000

Aviation Insurance Revolving Fund

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head, the obligations for which are in excess of $75,000,000 during fiscal year 1987. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

(borrowing authority)

$75,000,000 (limitation on borrowing authority)

For the settlement of promissory notes issued to the Secretary of the Treasury, $13,516,000, to remain available until expended, together with such sums as may be necessary for the payment of interest due under the terms and conditions of such notes. [1]14,816,000

[*Total, Federal Aviation Administration, $3,807,084,000.*]

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $202,750,000, shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $39,288,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities and private sources, for training expenses incurred for non-Federal employees.

202,750,000 (limitation on general operating expenses)

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT (HIGHWAY TRUST FUND)

For necessary expenses in carrying out provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $7,000,000. 7,000,000

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[1] Includes estimate of $1,300,000 in interest.

Highway-Related Safety Grants (Liquidation of Contract Authorization) (Highway Trust Fund)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $12,000,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1987 for "Highway-related safety grants".

$12,000,000 (liquidation of contract authorization)

10,000,000 (limitation on obligations)

Railroad-Highway Crossings Demonstration Projects

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $11,750,000, of which $7,833,333 shall be derived from the Highway Trust Fund.

11,750,000

Federal-Aid Highways (Limitation on Obligations) (Highway Trust Fund)

None of the funds in the Act shall be available for the implementation or execution of programs the obligations for which are in excess of $13,000,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1987.

13,000,000,000 (limitation on obligations)

Federal-Aid Highways (Liquidation of Contract Authorization) (Highway Trust Fund)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $13,130,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

13,130,000,000 (liquidation of contract authorization)

Right-of-Way Revolving Fund (Limitation on Direct Loans) (Highway Trust Fund)

During fiscal year 1987 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $47,850,000.

47,850,000 (limitation on direct loans)

Motor Carrier Safety

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939–940), $19,515,000, of which $1,600,000 shall remain available until expended, and not to exceed $1,532,000 shall be available for "Limitation on general operating expenses".

19,515,000

Motor Carrier Safety Grants (Highway Trust Fund)

For necessary expenses to carry out provisions of section 402 of Public Law 97–424, $16,269,000 to be derived from the Highway Trust Fund and to remain available until September 30, 1989.

16,269,000

Access Highways to Public Recreation Areas on Certain Lakes

Notwithstanding any other provision of law, there is appropriated $5,000,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended: *Provided,* That $1,700,000 shall be made available for a project in Morton County, North Dakota and $469,000 shall be made available for the Rice Lake Project in Ward County, North Dakota, which shall be considered eligible for funding. $5,000,000

Baltimore-Washington Parkway (Highway Trust Fund)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970, for the Baltimore-Washington Parkway, to remain available until expended, $8,000,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary. 8,000,000

Waste Isolation Pilot Project Roads

For necessary expenses in connection with the upgrading of certain highways for the transportation of nuclear waste generated during defense-related activities, not otherwise provided for, $10,000,000, to remain available until expended. 10,000,000

Airport-Highway Demonstration Project

For necessary expenses to carry out a highway project to depress a highway in Shawnee, Oklahoma, that demonstrates methods of improving air service to a small community by extension of a runway over a depressed road, $1,887,000, to remain available until expended. 1,887,000

Expressway Gap Closing Demonstration Project

For necessary expenses to carry out a highway construction project along State Route 113 in north-central California that demonstrates methods of reducing motor vehicle congestion and increasing employment, $6,200,000, to remain available until expended: *Provided,* That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 6,200,000

Intermodal Urban Demonstration Project (Highway Trust Fund)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $10,000,000, to be derived from the Highway Trust Fund. 10,000,000

Highway Safety and Economic Development Demonstration Projects (Highway Trust Fund)

For necessary expenses to carry out construction projects in the State of Mississippi on Route 302 to connect I–55 and U.S. Highway 72, on State Route 6 from Pontotoc to Oxford, on U.S. Highway 82 from I–55 to Starkville, and on U.S. Highway 72 from Corinth, Mississippi, to the Tennessee State line, that demonstrate the safety and economic benefits of widening and improving highways, there is authorized to be appropriated such sums as may be necessary, to be derived from the Highway Trust Fund and to remain available until expended, of which $10,000,000 is hereby appropriated, to remain available until expended, for the projects identified under this head on Route 302 and on U.S. Highway 82: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. $10,000,000

Airport Access Demonstration Project (Highway Trust Fund)

For necessary expenses to carry out a demonstration project in the vicinity of the Ontario International Airport in San Bernardino County, California, for the purpose of demonstrating methods of improving highway access to an airport that is projected to incur a substantial increase in air service, $4,000,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided*, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 4,000,000

Highway Safety Improvement Demonstration Project (Highway Trust Fund)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, there is hereby authorized to be appropriated $32,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $4,800,000 is hereby appropriated: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 4,800,000

Highway-Railroad Grade Crossing Safety Demonstration Project (Highway Trust Fund)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad grade crossing safety while minimizing surrounding environmental effects, there is hereby authorized to be appropriated $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended, of which $2,000,000 is hereby appropriated: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 2,000,000

Nuclear Waste Transportation Safety Demonstration Project (Highway Trust Fund)

For necessary expenses for a project to construct a relief route in the Los Alamos-Santa Fe, New Mexico, corridor that demonstrates methods of improving the safety of transporting nuclear waste by constructing an alternate route with specific safety features, $2,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 2,000,000

Theodore Roosevelt Bridge Capacity Improvements (Highway Trust Fund)

For necessary expenses to improve the safety, capacity, and operation of the Theodore Roosevelt Bridge on I–66, connecting the Commonwealth of Virginia and the District of Columbia, $1,500,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. $1,500,000

Airport Access Highway Demonstration Project (Highway Trust Fund)

For necessary expenses to carry out a demonstration project in the vicinity of the New Orleans International Airport in Jefferson Parish, Louisiana, for the purpose of demonstrating methods of improving highway access to an airport that is suffering from commuter congestion and is in the process of extending its main east-west runway, $2,500,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided*, That such funds shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs. 2,500,000

[*Total, Federal Highway Administration, $122,421,000.*]

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Operations and Research

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended), $89,222,000, together with $5,000,000, to be derived from unobligated balances of "Payments to air carriers", of which $34,172,000 shall be derived from the Highway Trust Fund: *Provided*, That not to exceed $41,484,000 shall remain available until expended, of which $19,387,000 shall be derived from the Highway Trust Fund: *Provided further*, That, of the funds available under this head, $10,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research. 89,222,000 *5,000,000 (by transfer)*

Highway Traffic Safety Grants

(Liquidation of Contract Authorization) (Highway Trust Fund)

(INCLUDING RESCISSION)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95–599, as amended, to remain available until expended, $127,000,000, to be derived from the Highway Trust Fund: *Provided*, That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $121,060,000 in fiscal year 1987 for "State and community highway safety" authorized under 23 U.S.C. 402: *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That none of the funds in this Act shall be available for the planning or *127,000,000 (liquidation of contract authorization) 121,060,000 (limitation on obligations)* execution of programs the total obligations for which are in excess of $16,150,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1983, 1984, 1985, 1986, and 1987: *Provided further,* That not to exceed $4,860,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That of the funds available for obligation for "Alcohol safety incentive grants" under section 23 U.S.C. 408, $5,000,000 is hereby rescinded.

$16,150,000
(limitation on obligations)

[1] *4,750,000*
(cumulative limitation on obligations)

−5,000,000
(rescission)

[*Total, National Highway Traffic Safety Administration (net), $84,222,000.*]

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, including authorized expenses associated with Washington Union Station, $26,875,000, of which $4,600,000 shall remain available until expended, and $3,500,000 shall be derived from unobligated balances of "Rail service assistance": *Provided,* That, notwithstanding any other provision of law, up to $500,000 of the funds appropriated in fiscal year 1986 for discretionary local rail service assistance grants under "Rail service assistance" shall be made available only for the rail rehabilitation needs of the Mississippian Railroad: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That none of the funds in this Act shall be available for the acquisition, sale, or transference of Washington Union Station without the prior approval of the House and Senate Committees on Appropriations: *Provided further,* That, notwithstanding any other provision of law, of the funds available under this head, $10,000,000 shall be available for necessary expenses for rail assistance authorized by section 5(q) of the Department of Transportation Act, as amended, to remain available until expended: *Provided further,* That $7,500,000 of the fiscal year 1987 funds made available under section 5(h) shall be made available for use directly under sections 5(h)(3)(B)(ii) and 5(h)(3)(C) of the Department of Transportation Act, as amended, notwithstanding any provisions therein to the contrary: *Provided further,* That each State shall be entitled to, and no more than, $50,000 under the combined provisions of section 5(h)(2) and section 5(i), notwithstanding any provisions therein to the contrary: *Provided further,* That no State may apply for fiscal year 1987 funds available under section 5(h)(2) until such State has obligated all funds granted to it under section 5(h)(2) in the fiscal years prior to the beginning of fiscal year 1982, other than funds not expended due to pending litigation: *Provided further,* That a State denied funding by reason of the preceding proviso may still apply for and receive funds for planning purposes.

23,375,000
3,500,000
(by transfer)

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[1] Cumulative limitation on obligations for fiscal years 1983, 1984, 1985, 1986, and 1987.

Railroad Safety

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,050,000, of which $1,350,000 shall remain available until expended. $27,050,000

Railroad Research and Development

For necessary expenses for railroad research and development, $9,581,000, to remain available until expended: *Provided,* That $200,000, together with funds appropriated for fiscal year 1986 and intended for such purposes, shall be available to support, by contract or financial assistance agreement, the development of railroad-community-police grade crossing safety education programs. 9,581,000

Northeast Corridor Improvement Program

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.), $16,962,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: *Provided further,* That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if such action would serve a public purpose: *Provided further,* That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights. 16,962,000

Grants to the National Railroad Passenger Corporation

(INCLUDING TRANSFER OF FUNDS)

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $602,000,000, including all unexpended balances available from "Conrail workforce reduction" as of September 30, 1986: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1987: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriation Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than

594,791,000
7,209,000
(by transfer)

40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short term avoidable costs of operating such service in the first year of operation and 100 per centum of the short term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

Railroad Rehabilitation and Improvement Financing Funds

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1987.

Redeemable Preference Shares

Notwithstanding any other provision of law, the Secretary of Transportation shall, until September 30, 1988, issue and sell, and the Secretary of the Treasury until such date shall purchase fund anticipation notes, and the Secretary of Transportation is hereby authorized to expend for uses authorized for the Railroad Rehabilitation and Improvement Fund proceeds from the sale of such fund anticipation notes and any other moneys deposited in the fund after September 30, 1985, pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, in additional amounts not to exceed $6,500,000. $6,500,000

Conrail Commuter Transition Assistance

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000, to remain available until expended. 5,000,000

[*Total, Federal Railroad Administration, $683,259,000.*]

URBAN MASS TRANSPORTATION ADMINISTRATION

Administrative Expenses

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,000,000, of which not to exceed $600,000 shall be available for the Office of the Administrator. 31,000,000

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $17,400,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

$17,400,000

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $2,000,000,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, before apportionment of these funds, $16,900,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended: *Provided further,* That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $847,044,097 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended: *Provided further,* That, notwithstanding any other provision of law, of the amount available for operating assistance under this Act, no more than $563,505,567 may be used for operating assistance in urbanized areas with a population of 1,000,000 or more.

2,000,000,000

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,002,500,000 in fiscal year 1987 for grants under the contract authority authorized in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

1,002,500,000 (limitation on obligations)

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $1,100,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

1,100,000,000 (liquidation of contract authorization)

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $200,000,000, to remain available until expended.

200,000,000

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $201,119,500, to remain available until expended.

201,119,500

[*Total, Urban Mass Transportation Administration, $2,449,519,500.*]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year except as hereinafter provided.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $1,925,000 shall be available for administrative expenses, which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided,* That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 shall be available for services as authorized by 5 U.S.C. 3109. *$1,925,000 (limitation on administrative expenses)*

EISENHOWER LOCK REPAIR

For necessary expenses to repair and rehabilitate Eisenhower Lock located near Massena, New York, $2,000,000, to remain available until expended. 2,000,000

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, for expenses for conducting research and development, and for grants-in-aid to carry out a pipeline safety program, as authorized by the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $19,950,000, of which $4,500,000 shall be available only for natural gas and hazardous liquid pipeline safety grants-in-aid, and of which $6,550,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training: *Provided further,* That of the funds made available for natural gas and hazardous liquid pipeline safety grants-in-aid, the sum provided over and above the amount made available for this purpose in fiscal year 1986 shall be used only to support additional enforcement personnel beyond the personnel level in each State as of September 30, 1986. 19,950,000

OFFICE OF THE INSPECTOR GENERAL

Salaries and Expenses

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $27,200,000. $27,200,000

[Total, title I, Department of Transportation:

[New budget (obligational) authority (net)	*$9,694,404,500.]*
[Appropriations	*9,712,920,500.]*
[Debt reduction	*−13,516,000.]*
[Rescission	*−5,000,000.]*
[By transfer	*28,273,000.]*
[Limitation on general operating and administrative expenses	*204,675,000.]*
[Limitation on borrowing authority	*75,000,000.]*
[Limitations on obligations	*15,289,710,000.]*
[Cumulative limitation on obligations	*4,750,000.]*
[Limitation on working capital fund	*65,500,000.]*
[Limitation on direct loans	*47,850,000.]*
[Appropriations to liquidate contract authorizations	*15,259,000,000.]*

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Salaries and Expenses

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,890,000. 1,890,000

NATIONAL TRANSPORTATION SAFETY BOARD

Salaries and Expenses

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $22,240,000, of which not to exceed $500 may be used for official reception and representation expenses. 22,240,000

INTERSTATE COMMERCE COMMISSION

Salaries and Expenses

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $46,802,000, together with the unobligated balances of "Payments for directed rail service": *Provided*, That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such. 46,802,000 *53,000 (by transfer)*

Payments for Directed Rail Service

(Limitation on Obligations)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $1,000,000 for directed rail service authorized under 49 U.S.C. 11125 or any other legislation.

$1,000,000
(limitation on obligations)

PANAMA CANAL COMMISSION

Operating Expenses

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); not to exceed $9,000 for official reception and representation expenses of the Board; operation of guide services; residence for the Administrator; disbursements by the Administrator for employee and community projects; not to exceed $3,000 for official reception and representation expenses of the Secretary; not to exceed $24,000 for official reception and representation expenses of the Administrator; and to employ services as authorized by law (5 U.S.C. 3109); $409,770,000, to be derived from the Panama Canal Commission Fund: *Provided,* That there may be credited to this appropriation funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects.

409,770,000

Capital Outlay

For acquisition, construction, replacement, and improvement of facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed forty-one passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $14,000 per vehicle); to employ services authorized by law (5 U.S.C. 3109); $24,403,000, to be derived from the Panama Canal Commission Fund and to remain available until expended.

24,403,000

[*Total, Panama Canal Commission, $434,173,000.*]

DEPARTMENT OF THE TREASURY

Office of the Secretary

Investment in Fund Anticipation Notes

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95–620, of fund anticipation notes, $6,500,000.

6,500,000
(investment)

UNITED STATES RAILWAY ASSOCIATION

Administrative Expenses

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, to remain available until expended, $2,200,000, of which not to exceed $500 may be available for official reception and representation expenses.

2,200,000

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement. $51,663,569

[*Total, title II, Related Agencies:*

[*New budget (obligational) authority*	*$558,968,569.*]
[*Limitation on obligations*	*1,000,000.*]
[*By transfer*	*53,000.*]
[*Investment*	*6,500,000.*]

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees in the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under section 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, at the—

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

SEC. 307. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 308. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles that are lawfully registered in another State, including vehicles engaged in interstate commercial transportation that are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the United States Department of Transportation.

SEC. 309. None of the funds appropriated by this Act shall remain available for obligation beyond the current fiscal year or may be transferred to other appropriations unless expressly so provided herein.

SEC. 310. Notwithstanding any other provision of law, total amounts of contract authority authorized in section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, shall be available for obligation until expended.

SEC. 311. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center; and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

SEC. 312. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 313. (a) For fiscal year 1987 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1986, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1987, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated bal-

ances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, and the Federal lands highway program.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1987 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, obligations under section 157 of title 23, United States Code, projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, or section 320 of title 23, United States Code.

(e) Notwithstanding any other provision of law, funds previously made available and unobligated for the "Auto Pedestrian Separation Demonstration Project" shall be available to the State of North Dakota for use on the 45th Street interchange in Fargo, North Dakota, and such funds transferred shall remain available until expended.

Sec. 314. None of the funds in this Act shall be available for salaries and expenses of more than one hundred thirty-eight political and Presidential appointees in the Department of Transportation.

Sec. 315. Not to exceed $750,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

$750,000 (limitation on administrative expenses)

Sec. 316. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan, area until a source of operating funds has been approved in accordance with Michigan law: *Provided*, That this limitation shall not apply to alternatives analysis studies under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended.

Sec. 317. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

Sec. 318. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan: *Provided*, That the immediately preceding provision shall not apply to $5,000,000 apportioned to the Detroit Department of Transportation.

Sec. 319. The City of Linden, New Jersey, and its successors and assigns are hereby released from all the terms, conditions, reservations, and restrictions contained in the deed dated February 27, 1947, by which the United States conveyed certain real property to the City of Linden, New Jersey, for airport purposes.

Sec. 320. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Sec. 321. (a) Safety Enforcement Program Performance.—The Secretary of Transportation shall on or before February 1, 1987, transmit to the Congress a comprehensive report on the fiscal year 1986 activities of the Federal Aviation Administration's operation and maintenance inspection and certification programs. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category to staffing goals and a statement as to the currency and validity of the staffing standards on which the goals are based;

(2) schedules showing the experience, in years, of the various inspector workforces and the extent to which inspectors have received all the mandatory or recommended training;

(3) a description of the criteria used to set annual work programs and an explanation of how these programs ensure compliance with appropriate Federal regulations and safe operating practices;

(4) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations;

(5) a statement of the adequacy of the internal management controls available to ensure that field managers are complying with inspection priorities and minimum inspection standards, and to collect and analyze inspection data;

(6) the status of the Department's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the various transportation modes, including a listing of the backlog of proposed regulatory changes identified as being critical to safety;

(7) a list of the operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(8) a listing of all enforcement actions taken, including all civil penalties, during the fiscal year by program, including the name and address of each organization against which an enforcement action was taken, the reason for the action, and the type of action taken;

(9) a listing of the total amount of civil penalties assessed and closed by fiscal year beginning with fiscal year 1977; and

(10) a set of safety statistics covering each of the last ten years that best depict the safety record of each transportation sector regulated by departmental inspectors.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The modes to be included are interstate and other priority highways and roads, mass transportation, rail, pipelines, and aviation. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. The strategic transportation planning study shall address such issues as:

(1) the need to continue a national transportation policy and program to further social, environmental, and mobility goals and objectives of the Nation;

(2) public and private fiscal support, growth patterns, the demographic character of population, geographic differences, and projected development or decline in specific regions;

(3) the current and future material and human resource needs that include facilities and equipment, employee requirements, and training and educational needs for the necessary manpower;

(4) the market potential—including future travel demands—and future community developments and configurations that may affect transportation needs;

(5) the degree to which existing transportation networks can be further developed to meet future travel and goods movement demands in view of cost, land use, environmental, social, economic, and technological considerations; and

(6) the Federal program strategies and costs by mode of transportation necessary to achieve and maintain a desired transportation system in the year 2015.

This study shall be submitted to Congress on or before December 31, 1987.

(c) ESSENTIAL AIR SERVICE OPTIONS STUDY.—The Secretary of Transportation shall conduct a study of the impact to small and remote communities of the discontinuation of essential air service subsidies. The study shall, first, identify those communities which are likely to realize a transportation dislocation without some level of air service support. Having identified such communities, the Secretary shall identify various methods of continued air transportation support. In presenting these methods, the Secretary shall identify various financial support options for each. The study shall be conducted with appropriate consultation with affected communities. The Secretary shall transmit the study to the Congress by February 1, 1987.

SEC. 322. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 323. The Secretary of Transportation shall enter into negotiations with the City of Philadelphia, Pennsylvania, for an amendment to the full funding contract in effect with regard to the Center City Commuter Connection (UMTA Project No. PA-03-0013): *Provided,* That the Secretary shall commence negotiations with the appropriate local authorities to enter into such agreement no later than 30 days after enactment of this section and shall conclude an agreement no later than 90 days after enactment of this section: *Provided further,* That the agreement shall provide for the reimbursement of the Federal share of extraordinary costs incurred by the City on the project, including, but not limited to, existing eminent domain damages, a reasonable estimate of anticipated eminent domain damages, and costs that the City incurred pursuant to the Northeast Corridor Improvement Project and the Northeast Rail Service Act of 1981.

SEC. 324. (a) Section 411(f) of the Surface Transportation Assistance Act of 1982 is amended by inserting "(1)" before "For the purposes" and by adding at the end of such action the following:

"(2) MAXI-CUBE VEHICLE DEFINED.—For purposes of this section, 'maxi-cube vehicle' means a truck tractor combined with a semi-trailer and a separable cargo-carrying unit which is designed to be loaded and unloaded through the semi-trailer, except that the entire combination shall not exceed 65 feet in length and the separable cargo-carrying unit shall not exceed 34 feet in length.".

(b) Section 411(c) of such Act is amended by inserting after "prohibit" the following: "maxi-cube vehicles or".

SEC. 325. None of the funds in this Act shall be used for any study project involving access by a causeway or bridge across wetlands of the San Francisco Bay to U.S. Highway 880 in Alameda County, California.

SEC. 326. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided, however,* That this prohibition shall not apply in the case of airports that are certified under Part 139 of the Federal Aviation Regulations.

SEC. 327. None of the funds in this Act shall be used to enforce any rules, policies, or guidelines which in any way condition, establish preference for, or otherwise base the granting or withholding of Federal assistance under this Act on the nature of the local transit planning or decision making process, or the decisions made as to the choice of public or private providers for the provision of mass transit services or functions: *Provided,* That it is not the intent of this section to supercede the existing statutory requirements of sections 3(e), 8(e), and 9(f) of the Urban Mass Transportation Act of 1964, as amended.

SEC. 329. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": *Provided,* That no appropriation shall be increased or decreased by more than 3 per centum by all such transfers: *Provided further,* That any such transfer shall be reported to the Committees on Appropriations.

SEC. 330. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.—

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) REGULATORY AUTHORITY.—The Secretary of Transportation shall issue such regulations, licenses, and orders as are necessary to carry out this section.

(d) PENALTIES.—

(1) FOR PERSONS OTHER THAN INDIVIDUALS.—Any person, other than an individual, that knowingly violates the provisions of this section or any regulation, license, or order issued to carry out this section shall be fined not more than $500,000.

(2) FOR INDIVIDUALS.—Any individual who knowingly violates the provisions of this section or any regulation, license, or order issued to carry out this section shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(3) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(A) IN GENERAL.—Whenever a person commits a violation under paragraph (1) or (2)—

(i) any officer, director, or employee of such person, or any natural person in control of such person, who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(ii) any agent of such person who willfully carried out such act or practice,

shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(B) Restriction on payment of fines.—A fine imposed under subparagraph (A) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(4) Seizure and forfeiture of aircraft.—Any aircraft used in connection with a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under this paragraph, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this paragraph, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

(e) Definitions.—

(1) Aircraft and foreign air carrier.—The terms "aircraft" and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(2) South Africa.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(3) South African national.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(f) Applicability to Evasions.—This section and the regulations issued to carry out this section shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this section or such regulations.

Sec. 331. Suitability of Air Traffic Controllers Who Participated in the 1981 Strike.—

(a) Authority To Appoint or Reinstate Certain Former Air Traffic Controllers.—Air traffic controllers whose appointments were terminated on account of the strike of air traffic controllers which began on or about August 3, 1981, shall not, as a class, be considered unsuitable for appointment or reinstatement in the Federal Aviation Administration. Determinations of suitability for appointment or reinstatement to any such position shall be made on a case-by-case basis by the Office of Personnel Management in accordance with part 731 of title 5 of the Code of Federal Regulations (as in effect on June 1, 1986).

(b)(1) An individual may be appointed or reinstated under this subsection only if such individual is qualified, or would, after appropriate retraining, be qualified, for the position involved.

(2)(A) Except as provided in subparagraph (B), no claim may lie against the Government of the United States, or any officer, employee, or agency thereof, based on a failure to appoint or reinstate a particular individual under this subsection.

(B) Nothing in this paragraph shall preclude a claim based on discrimination on the basis of race, color, religion, sex, or national origin.

(3) Nothing in section 3307(b) of title 5, United States Code, or in any rule or regulation prescribed thereunder, shall apply with respect to appointments under this subsection.

(c) REGULATIONS.—The Secretary of Transportation may prescribe regulations to carry out this section (excluding the second sentence of subsection (a)).

(d) DEFINITION.—For the purpose of this section, the term "air traffic controller" has the meaning given such term by section 2109 of title 5, United States Code.

SEC. 332. Notwithstanding any other provision of law, funds appropriated under any heading in this Act or in Appropriations Acts for prior years and intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions which are specified in such Acts or in any report accompanying such Acts.

SEC. 333. (a) Notwithstanding any other provision of law, the Secretary of Transportation may use not to exceed one-half of 1 percent of—

(1) the funds made available for fiscal year 1987 by section 21(a)(2)(B) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 3 of such Act to contract with any person to oversee the construction of any major project under such section;

(2) the funds appropriated for fiscal year 1987 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 9 of such Act to contract with any person to oversee the construction of any major project under such section;

(3) the funds appropriated for fiscal year 1987 pursuant to section 21(a)(1) of the Urban Mass Transportation Act of 1964, as amended, to carry out section 18 of such Act to contract with any person to oversee the construction of any major project under such section;

(4) the funds appropriated for fiscal year 1987 pursuant to section 4(g) of the Urban Mass Transportation Act of 1964, as amended, to contract with any person to oversee the construction of any major public transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23, United States Code; and

(5) the funds appropriated for fiscal year 1987 pursuant to the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under such Act.

(b) Any contract entered into under subsection (a) shall provide for the payment by the Secretary of Transportation of 100 percent of the cost of carrying out the contract.

(c) This section shall take effect on October 1, 1986, and shall cease to be in effect at the close of September 30, 1987.

SEC. 334. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida during the period Interstate 95 is under reconstruction in such area.

[*Total, title III, General Provisions (limitation on administrative expenses), $750,000.*]

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1987".

LEGISLATIVE HISTORY—H.R. 5205

HOUSE REPORTS: No. 99-696 (Comm. on Appropriations), No. 99-976 (Comm. of Conference), and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-423 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 18, reported in the House.
July 29 and 30, considered and passed House.
Aug. 19, reported in the Senate.
Sept. 17, considered and passed Senate, amended.
Oct. 7, conference report filed in the House (H. Report No. 99-976).
Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority provided for fiscal year 1987 under Sec. 101(l) of Public Law 99-591 for the programs and activities normally funded in this regular annual appropriation bill:

Grand total:		
New budget (obligational) authority (net)	$10,253,373,069	
Appropriations	(10,271,889,069)	
Appropriations for debt reduction	(−13,516,000)	
Rescission	(−5,000,000)	
By transfer	*(28,326,000)*	
Limitation on borrowing authority	*(75,000,000)*	
Limitation on general operating and administration expenses	*(205,425,000)*	
Limitation on obligations	*(15,290,710,000)*	
Cumulative limitation on obligations	*(4,750,000)*	
Limitation on direct loans	*(47,850,000)*	
Limitation on working capital fund	*(65,500,000)*	
Appropriations to liquidate contract authorizations	*(15,259,000,000)*	
Investment	*(6,500,000)*	
Total, new budget (obligational) authority, Department of Transportation and Related Agencies Appropriation Bill, 1987 (net)		[1] $10,253,373,069

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(l) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the Department of Transportation for the fiscal year:

Permanent appropriations:		
Federal funds (pp. 3026-3027)	$330,800,000	
Trust funds (pp. 3040-3041)	5,122,661,000	
Appropriations in legislative acts:		
Boat safety, trust funds (P.L. 99-640) (p. 3166)	15,000,000	
Federal ship financing fund, Federal funds (P.L. 99-509) (p. 3165)	−12,000,000	
Motor carrier safety grants, trust funds (P.L. 99-570) (p. 3166)	34,000,000	
Sport fish restoration, trust funds (P.L. 99-640) (p. 3165)	15,000,000	
Departments of Commerce, Justice, and State, and the Judiciary Appropriations Bill, 1987:		
Maritime Administration (pp. 250-251)	67,500,000	
Fourth Further Continuing Appropriations, 1987 (P.L. 99-591):		
Coast Guard (p. 527)	128,000,000	
Subtotal, additions (net)		5,700,961,000

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[1] The Department of Transportation and Related Agencies Appropriation Bill, 1987 (H.R. 5205) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 145, this volume).

Deduct amounts for independent agencies transferred to General government totals:

General Government:	
Architectural and Transportation Barriers Compliance Board (p. 161)	$1,890,000
Interstate Commerce Commission (pp. 161-162)	46,802,000
National Transportation Safety Board (p. 161)	22,240,000
Panama Canal Commission (p. 162)	434,173,000
United States Railway Association (p. 162)	2,200,000
Washington Metropolitan Area Transit Authority (p. 163)	51,663,569
Subtotal, deductions	−$558,968,569
Grand total, Department of Transportation (net)	[1]15,395,365,500

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[1] The Department of Transportation and Related Agencies Appropriation Bill, 1987 (H.R. 5205) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 145, this volume).

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 1987

99th Congress, H.R. 5294

[NOTE.—The Treasury, Postal Service, and General Government Appropriations Bill, 1987 (H.R. 5294) was not approved by the Congress. The bill was reported by the Committee on Appropriations of the House of Representatives on July 30, 1986, and was passed by the House on August 6, 1986. The bill was reported by the Committee on Appropriations of the Senate on August 14, 1986. The Senate did not act on the bill. Funding of those programs and activities normally included in this regular annual appropriations bill is provided under Sec. 101(m) of Public Law 99-500, approved October 18, 1986, and Sec. 101(m) of Public Law 99-591, approved October 30, 1986, Making Further Continuing Appropriations for fiscal year 1987. (See pp. 478-512 for text of Sec. 101(m) of Public Law 99-591, and pp. 3151-3153 for the related table VIII showing estimates and funding levels by appropriation account).]

LEGISLATIVE HISTORY—H.R. 5294

HOUSE REPORTS: No. 99-723 (Comm. on Appropriations) and No. 99-1005 (Comm. of Conference, H.J. Res. 738).
SENATE REPORT No. 99-406 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 30, reported in the House.
Aug. 1 and 6, considered and passed by the House.
Aug. 14, reported in the Senate.
Oct. 18, included in continuing resolution (H.J. Res. 738).

NOTE.—The following summary shows the amounts of new budget (obligational) authority available for fiscal year 1987 under section 101(m) of Public Law 99-591, for programs and activities normally included in the Treasury, Postal Service, and General Government Appropriations Bill, 1987:

Grand total:	
Title I, Treasury Department	$6,217,905,000
Title II, Postal Service	650,000,000
Title III, Executive Office of the President	96,301,000
Title IV, Independent Agencies	6,678,593,800
Limitations	*(2,447,956,000)*
Total, new budget (obligational) authority, Treasury, Postal Service, and General Government Appropriations Bill, 1987	[1]$13,642,799,800

NOTE.—In addition to the new budget (obligational) authority for fiscal year 1987 provided under Sec. 101(m) of Public Law 99-591, Further Continuing Appropriations, 1987, the following additional amounts are available for the fiscal year:

Permanent appropriations:	
Federal funds (pp. 3021 and 3026-3029)	$224,739,793,000
Trust funds (pp. 3040-3044)	54,735,258,000
Private appropriation acts (p. 3015)	88,525
Appropriations in legislative acts:	
Civil service retirement and disability fund, trust funds (P.L. 99-335) (p. 3165)	1,130,000,000
Civil service retirement and disability fund, trust funds (P.L. 99-509) (p. 3165)	5,000,000
Payment to civil service retirement and disability fund, Federal funds (P.L. 99-335) (p. 3163)	-470,000,000

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[1] The Treasury, Postal Service, and General Government Appropriations Bill, 1987 (H.R. 5294) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note", above).

Appropriations in legislative acts—Continued:	
Payment where earned income credit exceeds liability for tax, Federal funds (P.L. 99-514) (p. 3163)	$83,000,000
Postal Service, Federal funds (P.L. 99-335) (p. 3165)	390,000,000
Rail industry pension fund, trust funds (P.L. 99-272) (p. 3165)	101,000,000
Refunding internal revenue collections, interest, Federal funds (P.L. 99-514) (p. 3163)	−22,000,000
Sec. 503 guaranteed loans—FFB direct loans, Federal funds (P.L. 99-272) (p. 3164)	−192,000,000
Small business investment companies debentures—FFB direct loans, Federal funds (P.L. 99-272) (p. 3164)	−248,000,000
Advance appropriations for fiscal year 1987 made during previous sessions of Congress:	
98th Cong., 2d session:	
Corporation for Public Broadcasting (p. 218, 1983-1984 volume)	[1] *(200,000,000)*
Urgent Supplemental Appropriations Act, 1986:	
National Aeronautics and Space Administration (p. 24)	100,000,000
Department of Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987:	
Commodity Futures Trading Commission (p. 215)	29,761,000
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987:	
Arms Control and Disarmament Agency (p. 251)	29,000,000
Board for International Broadcasting (p. 251)	140,000,000
Christopher Columbus Quincentenary Jubilee Commission (p. 251)	220,000
Commission on the Bicentennial of the United States Constitution (p. 251)	13,200,000
Commission on Civil Rights (p. 252)	7,500,000
Commission on Security and Cooperation in Europe (p. 252)	526,000
Equal Employment Opportunity Commission (p. 252)	165,000,000
Federal Communications Commission (pp. 252-253)	95,000,000
Federal Maritime Commission (p. 253)	11,600,000
Federal Trade Commission (pp. 253-254)	65,000,000
International Trade Commission (p. 254)	33,900,000
Japan-United States Friendship Trust Fund (p. 254)	1,408,000
Legal Services Corporation (pp. 254-255)	305,500,000
Marine Mammal Commission (p. 255)	900,000
Office of the United States Trade Representative (p. 255)	13,300,000
Securities and Exchange Commission (p. 255)	110,500,000
Small Business Administration (p. 256)	481,742,000
State Justice Institute (p. 257)	7,200,000
United States Information Agency (pp. 257-258)	827,250,000
United States Sentencing Commission (p. 249)	5,800,000
Department of Defense Appropriation Bill, 1987:	
Barry Goldwater Scholarship and Excellence in Education Fund (p. 284)	40,000,000
CIA Retirement and Disability System Fund (p. 283)	125,800,000
Henry M. Jackson Foundation (p. 284)	10,000,000
Intelligence Community Staff (p. 284)	21,738,000
Energy and Water Development Appropriation Bill, 1987:	
Appalachian Regional Development Programs (p. 386)	105,000,000
Delaware River Basin Commission (p. 386)	385,000
Interstate Commission on the Potomac River Basin (p. 386)	79,000
National Council on Public Works Improvements (p. 386)	1,750,000
Nuclear Regulatory Commission (pp. 386-387)	401,000,000
Susquehanna River Basin Commission (p. 387)	419,000
Tennessee Valley Authority (p. 387)	100,000,000
Department of HUD—Independent Agencies Appropriation Bill, 1987:	
American Battle Monuments Commission (p. 67)	11,673,000
Consumer Information Center (GSA) (p. 72)	1,272,000
Consumer Products Safety Commission (p. 67)	34,100,000
Environmental Protection Agency (pp. 68-70)	4,155,092,000
Executive Office of the President (p. 70)	2,700,000
Federal Emergency Management Agency (pp. 70-72)	576,000,000
National Aeronautics and Space Administration (pp. 72-74)	8,000,000,000

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[1] Also included under "Permanent appropriations, Federal funds".

National Science Foundation (pp. 74–75)	$1,622,850,000	
Neighborhood Reinvestment Corporation (p. 75)	19,000,000	
Selective Service System (pp. 75–76)	26,128,400	
Department of the Treasury:		
Office of Revenue Sharing, salaries and expenses (p. 76)	5,560,000	
Veterans Administration (pp. 76–79)	26,044,854,000	
Department of the Interior and Related Agencies Appropriations Bill, 1987:		
Advisory Council on Historic Preservation (p. 453)	1,533,000	
Commission of Fine Arts (p. 453)	450,000	
Franklin Delano Roosevelt Memorial Commission (p. 453)	5,000	
Holocaust Memorial Council (p. 454)	2,040,000	
National Capital Planning Commission (p. 453)	2,684,000	
National Foundation on the Arts and Humanities (pp. 451–453)	328,821,000	
Navajo-Hopi Relocation Commission (p. 449)	22,335,000	
Pennsylvania Avenue Development Corporation (pp. 453–454)	6,321,000	
Smithsonian Institution (pp. 450–451)	245,819,000	
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1987:		
ACTION (p. 118)	153,287,000	
Commission on Education of the Deaf (p. 119)	750,000	
Corporation for Public Broadcasting (p. 119) $228,000,000 for fiscal year 1989	....	
Federal Mediation and Conciliation Service (p. 119)	23,523,000	
Federal Mine Safety and Health Review Commission (p. 119)	3,785,000	
National Commission on Libraries and Information Science (p. 119)	660,000	
National Council on the Handicapped (p. 120)	850,000	
National Labor Relations Board (p. 120)	129,960,000	
National Mediation Board (p. 120)	6,401,000	
Occupational Safety and Health Review Commission (p. 120)	5,750,000	
Railroad Retirement Board:		
Dual benefits payments account (pp. 120–121)	380,000,000	
Payments to Railroad Retirement Accounts (p. 121)	3,100,000	
United States Institute of Peace (p. 122)	625,000	
Department of Transportation and Related Agencies Appropriation Bill, 1987:		
Architectural and Transportation Barriers Compliance Board (p. 161)	1,890,000	
Interstate Commerce Commission (pp. 161–162)	46,802,000	
National Transportation Safety Board (p. 161)	22,240,000	
Panama Canal Commission (p. 162)	434,173,000	
United States Railway Association (p. 162)	2,200,000	
Washington Metropolitan Area Transit Authority (p. 163)	51,663,569	
Fourth Further Continuing Appropriations, 1987 (P.L. 99–591):		
ACTION (p. 527)	3,000,000	
Aviation Safety (p. 542)	2,000,000	
National Aeronautics and Space Administration (p. 416)	2,434,000,000	
Payment to the Government of Puerto Rico (p. 528)	7,800,000	
United States Customs Service (p. 527)	147,251,000	
United States Information Agency (p. 524)	2,000,000	
United States Secret Service (p. 527)	5,000,000	
White House Conference on Drug Abuse and Control (p. 528)	5,000,000	
Subtotal, additions (net)		$328,485,565,494
Grand total, Treasury, Postal Service, and General Government		[1]342,128,365,294

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[1] The Treasury, Postal Service, and General Government Appropriations Bill, 1987 (H.R. 5294) was not approved by the Congress. Funding for programs and activities normally included in this bill is provided through a continuing resolution (see "Note" on page 173, this volume).

[illegible]

CONTINUING APPROPRIATIONS, 1987

Public Law 99-434

99th Congress, H.J. Res. 743

October 1, 1986

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriation Acts:

District of Columbia Appropriations Act, 1987, H.R. 5175 as passed by the House on July 24, 1986 and as passed by the Senate on September 16, 1986;

Department of the Interior and Related Agencies Appropriations Act, 1987, H.R. 5234 as passed by the House on July 31, 1986 and as passed by the Senate on September 16, 1986;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, H.R. 5233 as passed by the House on July 31, 1986 and as passed by the Senate on September 10, 1986;

Military Construction Appropriations Act, 1987, H.R. 5052 as passed by the House on June 25, 1986 and as passed by the Senate on August 13, 1986; and

Department of Transportation and Related Agencies Appropriations Act, 1987, H.R. 5205 as passed by the House on July 30, 1986 and as passed by the Senate on September 17, 1986.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House is different from that which would be available or granted under such Act as passed by the Senate, the pertinent program, project, or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1986.

(4) No provision which is included in an appropriations Act enumerated in this subsection but which was not included in the applicable appropriations Act of 1986, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(5) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(6) Whenever a conference report and joint explanatory statement of the committee of conference on any appropriations bill listed in this subsection is filed in the House, such amounts as may be necessary are hereby appropriated and shall become available in lieu of the rates specified in this subsection at a rate of operations for activities and under the terms and conditions provided for in such conference report and accompanying joint explanatory statement of the committee of conference.

(b)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, H.R. 5177 as passed by the House on July 24, 1986;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, H.R. 5161 as passed by the House on July 17, 1986;

Department of Defense Appropriations Act, 1987, H.R. 5438 as provided for in section 101(c) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Energy and Water Development Appropriations Act, 1987, H.R. 5162 as passed by the House on July 23, 1986;

Foreign Assistance and Related Programs Appropriations Act, 1987, H.R. 5339 as provided for in section 101(f) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, H.R. 5313 as passed by the House on September 12, 1986; and

Treasury, Postal Service, and General Government Appropriations Act, 1987, H.R. 5294 as passed by the House on August 6, 1986.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1986.

(4) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(c) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99–805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

(Legislative Branch Appropriations, 1987)

(d) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980 except that no activity authorized by such Acts shall be funded beyond September 30, 1987; and

Activities authorized by the Follow Through Act.

(October 8, 1986, expiration date)

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 8, 1986, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

(Authorizing legislation)

SEC. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

Approved October 1, 1986.

LEGISLATIVE HISTORY—H.J. Res. 743

CONGRESSIONAL RECORD, Vol. 132 (1986):

Sept. 30, considered and passed House and Senate.

FURTHER CONTINUING APPROPRIATIONS, 1987

Public Law 99-464

99th Congress, H.J. Res. 750

October 9, 1986

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:**

SEC. 101. (a)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriation Acts:

District of Columbia Appropriations Act, 1987, H.R. 5175 as passed by the House on July 24, 1986, and as passed by the Senate on September 16, 1986;

Department of the Interior and Related Agencies Appropriations Act, 1987, H.R. 5234 as passed by the House on July 31, 1986, and as passed by the Senate on September 16, 1986;

Military Construction Appropriations Act, 1987, H.R. 5052 as passed by the House on June 25, 1986, and as passed by the Senate on August 13, 1986; and

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House is different from that which would be available or granted under such Act as passed by the Senate, the pertinent program, project, or activity shall be continued under the lesser amount or the more restrictive authority: ***Provided,*** **That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1986.**

(4) No provision which is included in an appropriations Act enumerated in this subsection but which was not included in the applicable appropriations Act of 1986, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included

in identical form in such bill as enacted by both the House and the Senate.

(5) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(b)(1) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities, not otherwise specifically provided for in this joint resolution, for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, H.R. 5177 as passed by the House on July 24, 1986;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, H.R. 5161 as passed by the House on July 17, 1986;

Department of Defense Appropriations Act, 1987, H.R. 5438 as provided for in section 101(c) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Energy and Water Development Appropriations Act, 1987, H.R. 5162 as passed by the House on July 23, 1986;

Foreign Assistance and Related Programs Appropriations Act, 1987, H.R. 5339 as provided for in section 101(f) of H.J. Res. 738 which passed the House on September 25, 1986, and such Act shall be deemed to have passed the House for purposes of this joint resolution;

Treasury, Postal Service, and General Government Appropriations Act, 1987, H.R. 5294 as passed by the House on August 6, 1986.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

(3) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1986, the pertinent program, project, or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1986.

(4) No appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1986.

(Legislative Branch Appropriations, 1987)

(c) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

(Housing and Urban Development Appropriations, 1987)

(d) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5313, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-977) as filed in the House of Representatives on October 7, 1986, as if enacted into law.

(e) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5233, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law.

(Labor, Health and Human Services, and Education Appropriations, 1987)

(f) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representatives on October 7, 1986, as if enacted into law except that such conference agreement shall be considered as not including those provisions in Section 331 of H.R. 5205 as passed the House of Representatives on July 30, 1986.

(Department of Transportation Appropriations, 1987)

(g) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980 except that no activity authorized by such Acts shall be funded beyond September 30, 1987; and

Activities authorized by the Follow Through Act.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 10, 1986, whichever first occurs.

(October 10, 1986, expiration date)

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Sec. 106. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

DRUG COORDINATION PLAN

Sec. 107. Pending the enactment of the Omnibus Drug Supplemental Appropriations Act of 1987, contained as title II of the fiscal year 1987 Continuing Appropriations Act of 1987 (H.J. Res. 738), the President or his designee shall, out of the $1,200,000,000 made available for drug abuse prevention programs by House Joint Resolution 738 and continued by this resolution and in the regular appropriations bills for the fiscal year 1987, with the cooperation of those presently engaged in this effort in the executive departments, Members of Congress, and others experienced in the field of law enforcement, use $100,000 to develop an overall drug abuse prevention plan that coordinates the Government's efforts in combating the widespread use of illegal drugs: *Provided*, That this plan shall be presented to the Congress no later than January 1, 1987.

(Drug Abuse Prevention Plan)

Approved October 9, 1986.

LEGISLATIVE HISTORY—H.J. Res. 750

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 8, considered and passed House and Senate.

SECOND FURTHER CONTINUING APPROPRIATIONS, 1987

Public Law 99-465

99th Congress, H.J. Res. 751

October 11, 1986

JOINT RESOLUTION

Making further continuing appropriations for the fiscal year ending September 30, 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of October 9, 1986 (Public Law 99-464) is hereby amended by striking out "October 10, 1986" and inserting in lieu thereof "October 15, 1986".

Approved October 11, 1986.

LEGISLATIVE HISTORY—H.J. Res. 751

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 10, considered and passed House and Senate.

68-500 O—89—7 (Vol. I)

THIRD FURTHER CONTINUING APPROPRIATIONS, 1987

Public Law 99-491

99th Congress, H.J. Res. 753

October 16, 1986

JOINT RESOLUTION

Making further continuing contributions for the fiscal year ending September 30, 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of October 11, 1986 (Public Law 99-465) is hereby amended by striking out "October 15, 1986" and inserting in lieu thereof "October 16, 1986".

Approved October 16, 1986.

LEGISLATIVE HISTORY—H.J. Res. 753

CONGRESSIONAL RECORD, Vol. 132 (1986):
    Oct. 16, considered and passed House and Senate.

FOURTH FURTHER CONTINUING APPROPRIATIONS, 1987

Public Law 99-591 [1]

99th Congress, H.J. Res. 738

October 30, 1986

[NOTE.—This joint resolution provides budget authority for thirteen annual appropriation bills which were not enacted into law. These thirteen bills are: (1) Agriculture, 1987 (H.R. 5177); (2) Commerce, Justice, State, and the Judiciary, 1987 (H.R. 5161); (3) Defense, 1987 (H.R. 5438); (4) District of Columbia, 1987 (H.R. 5175); (5) Energy and Water Development, 1987 (H.R. 5162; (6) Foreign Assistance, 1987 (H.R. 5339); (7) Housing and Urban Development, 1987 (H.R. 5313); (8) Interior, 1987 (H.R. 5234); (9) Labor, Health and Human Services, and Education, 1987 (H.R. 5233); (10) Legislative Branch, 1987 (H.R. 5203); (11) Military Construction, 1987 (H.R. 5052); (12) Transportation, 1987 (H.R. 5205); and (13) Treasury, Postal Service, and General Government, 1987 (H.R. 5294). Although budget authority for these bills is provided in this joint resolution, a separate modified bill and table VIII for each are included where they would normally appear in this volume.]

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1987, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1987, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

(Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987)

AN ACT

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5

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[1] A version of H.J. Res. 738 with three pages missing from the enrolled copy was signed by the President October 18, 1986, as Public Law 99-500. The second enrolled copy included the three missing pages and was signed October 30, 1986, as Public Law 99-591.

U.S.C. 3109, $1,623,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary. $1,623,000

Office of the Assistant Secretary for Administration

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $455,000. 455,000

Rental Payments (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $48,728,000: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account. 48,728,000

Building Operations and Maintenance

For the operation, maintenance, and repair of the Washington, D.C. Agriculture building complex pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $18,039,000. 18,039,000

Advisory Committees (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,308,000: *Provided,* That no other funds in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees. 1,308,000

Departmental Administration

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $3,611,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $17,616,000; making a total of $21,227,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558. 21,227,000

WORKING CAPITAL FUND

An amount of $5,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies. $5,708,000

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $318,000. 318,000

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,293,000, of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided*, That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). 7,293,000

For necessary expenses for liaison with the Congress on legislative matters, $465,000. 465,000

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000. 440,000

[*Total, Office of Governmental and Public Affairs, $8,198,000.*]

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $44,461,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $75,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98. 44,461,000

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $17,131,000. 17,131,000

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $448,000. 448,000

Economic Research Service

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $43,982,000; of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

$43,982,000

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $56,787,000: *Provided,* That, hereafter, no funds available to the Department of Agriculture shall be available to publish estimates of apple production for other than the commercial crop: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

56,787,000

World Agricultural Outlook Board

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,608,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

1,608,000

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $350,000. $350,000

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $497,664,000: *Provided*, That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further*, That of the appropriations hereunder not less than $10,526,600 shall be available to conduct marketing research: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $150,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $275,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $150,000 whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to a total of $250,000 for facilities at Beltsville, Maryland: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That the limitation on purchase of land shall not apply to the purchase of land at Fresno, California, or to an option to purchase land at Florence, South Carolina, for a term of not to exceed one year: *Provided further*, That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further*, That this appropriation shall be available for transfer of all necessary equipment and germplasm to fully equip the National Small Grains Germplasm Facility in Aberdeen, Idaho. 497,664,000

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000. 2,000,000

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $37,400,000: *Provided*, That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further*, That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities. $37,400,000

[*Total, Agricultural Research Service, $537,064,000.*]

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $148,792,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a–361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $12,412,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $22,320,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $28,037,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $40,651,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $20,368,000 for grants for research and for construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $9,508,000 for grants to upgrade 1890 land-grant college research facilities as authorized by section 1433 of Public Law 97-98, as amended, to remain available until expended; $4,754,000 for higher education strengthening grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977; $2,000,000 for grants as authorized by section 1411 of Public Law 99-198, to remain available until expended; and $2,630,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $300,573,000. $300,573,000

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $229,713,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $57,635,000, of which $38,627,000 shall be derived by *38,627,000* transfer from the appropriation "Food Stamp Program" and merged *(by transfer)* with this appropriation; payments for the urban gardening program under section 3(d) of the Act, $3,329,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; payments for a financial management assistance program under section 3(d) of the Act and section 1440 of Public Law 99-198, $3,277,000; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $689,000; payments for extension work under section 209(c) of Public Law 93-471, $935,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978, $2,378,000; for special grants for financially stressed farmers and dislocated farmers as authorized by section 1440 of Public Law 99-198, $1,500,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $16,877,000; in all, $326,147,000; of which not 287,520,000 less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $6,025,000; of which not less than $2,300,000 is for Home Economics. 6,025,000

[*Total, Extension Service, $293,545,000.*]

National Agricultural Library

For necessary expenses of the National Agricultural Library, $10,936,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $575,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements. $10,936,000

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $327,000. 327,000

Animal and Plant Health Inspection Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $300,967,000; of which $10,000,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious diseases or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts. 300,967,000

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,246,000. $2,246,000

[*Total, Animal and Plant Health Inspection Service, $303,213,000.*]

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $361,400,000: *Provided*, That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building. 361,400,000

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $6,697,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further*, That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require, nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act. 6,697,000

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICE EXPENSES

Not to exceed $36,829,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services. *36,829,000 (limitation on obligations, from fees collected)*

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,469,000; of which $99,000 shall be available for a field office in Hawaii: *Provided*, That 4,469,000 this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $30,945,000; of which not less than $1,501,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

$30,945,000

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $28,164,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

28,164,000 (limitation on obligations, from fees collected)

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY

(SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,147,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

7,147,000 (by transfer)

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

942,000

Office of Transportation

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,340,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration

2,340,000

and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

[*Total, Agricultural Marketing Service, $34,227,000.*]

Packers and Stockyards Administration

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $8,945,000. $8,945,000

[*Total, Production, Processing, and Marketing, $2,131,767,000.*]

Farm Income Stabilization

Office of the Under Secretary for International Affairs and Commodity Programs

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $473,000. 473,000

Agricultural Stabilization and Conservation Service

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202 and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended; sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); and laws pertaining to the Commodity Credit Corporation, not to exceed $491,856,000, to be derived by transfer from the Commodity Credit Corporation fund: *491,856,000 (by transfer)* *Provided*, That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further*, That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further*, That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the

Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $95,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government. $95,000

[*Total, Farm Income Stabilization, $568,000.*]

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $209,568,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i). 209,568,000

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $135,743,000. 135,743,000

[*Total, Federal Crop Insurance Corporation, $345,311,000.*]

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to the Act

of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $16,808,806,000, and in addition $3,000,000,000 which shall be available only to the extent an official budget request is transmitted to the Congress, such funds to be available, together with other resources available to the Corporation, to finance the Corporation's programs and activities during fiscal year 1987: *Provided,* That of the foregoing amount, not to exceed the following amounts shall be available for the following programs: export guaranteed loan claims, $683,350,000; conservation reserve program, $700,000,000; export enhancement program, $667,000,000; Federal crop insurance program, $375,000,000; targeted export assistance program, $325,000,000; storage facility loan program under section 4(h) of the Commodity Credit Corporation Charter Act, $100,000,000; and interest payments to the United States Treasury, $1,932,000,000.

[1]$19,808,806,000
3,000,000,000
(subject to
budget request)

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

5,000,000,000
(limitation on
guaranteed
loans)

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

500,000,000
(limitation on
guaranteed
loans)

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $6,027,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager who shall work to expand and strengthen sales of United States commodities (including those of the Corporation) in world markets pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

6,027,000
(by transfer)

[*Total, Corporations, $20,154,117,000.*]

[*Total, title I, Agricultural Programs:*

[*New budget (obligational) authority*	[1] *$22,286,452,000.*]
[*Subject to budget request*	*3,000,000,000.*]
[*By transfer*	*543,657,000.*]
[*Limitation on obligations*	*64,993,000.*]
[*Limitation on guaranteed loans*	*5,500,000,000.*]

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[1] Includes appropriation of $3,000,000,000 available subject to submission of budget request, which was not submitted at the time this bill was approved. The estimate was allegedly submitted in the President's fiscal year 1988 budget (H. Doc. 100-3) by increasing the amount of the new budget (obligational) authority in the fiscal year 1987 column. The usual supplemental requests were not received by the Congress.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $394,000.

$394,000

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $2,033,093,000, of which not less than $2,032,519,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

2,033,093,000 (loan authorization)

10,000,000 (limitation on obligations)

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $160,310,000 to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided*, That of this amount, not to exceed $28,413,000 is available for additional units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for additional units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further*, That agreements entered into or renewed during fiscal year 1987 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further*, That agreements entered into or renewed during fiscal years 1984, 1985, and 1986, may also be extended beyond five years to fully utilize amounts obligated.

160,310,000 (limitation on obligations)

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $2,247,000 as authorized by section 521(c) of the Act, $2,296,283,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

2,296,283,000

[*Total, Rural Housing Insurance Fund:*

[*New budget (obligational) authority* .... *$2,296,283,000.*]
[*Loan authorization* .... *2,033,093,000.*]
[*Limitation on obligations* .... *170,310,000.*]

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

500,000 (loan authorization)

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C.
1928–1929, to be available from funds in the Agricultural Credit
Insurance Fund, as follows: farm ownership loans, $400,000,000 of [1]*$400,000,000*
which $325,000,000 shall be guaranteed loans; $14,000,000 for water [1]*14,000,000*
development, use, and conservation loans of which $3,000,000 shall
be guaranteed loans; operating loans, $3,595,000,000 of which [1]*3,595,000,000*
$2,170,000,000 shall be guaranteed loans; Indian tribe land acquisition
loans as authorized by 25 U.S.C. 488, $2,000,000; and for emergency [1]*2,000,000*
insured and guaranteed loans, $695,000,000 to meet the needs [1]*695,000,000*
resulting from natural disasters.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,723,403,000. 1,723,403,000

[*Total, Agricultural Credit Insurance Fund:*

[*New budget (obligational) authority* .... *$1,723,403,000.*]

[*Loan authorization* .... *4,706,000,000.*]

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928
and 86 Stat. 661–664, to be available from funds in the Rural
Development Insurance Fund, as follows: insured water and sewer
facility loans, $330,380,000; guaranteed industrial development [1]*330,380,000*
loans, $95,700,000; and insured community facility loans, [1]*95,700,000*
$95,700,000. [1]*95,700,000*

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $656,645,000. 656,645,000

[*Total, Rural Development Insurance Fund:*

[*New budget (obligational) authority* .... *$656,645,000.*]

[*Loan authorization* .... *521,780,000.*]

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act. 109,395,000

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000. 12,500,000

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000. 9,513,000

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000. 8,000,000

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[1] Loan authorization.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

$3,091,000

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $713,000.

713,000

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

19,140,000

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which Farmers Home Administration has the responsibility for administering, $386,867,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,047,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided*

386,867,000
3,000,000
(by transfer)

1,000,000
(by transfer)

further, That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

[*Total, Farmers Home Administration:*

[*New budget (obligational) authority*	*$5,225,550,000.*]
[*Loan authorization*	*7,261,373,000.*]
[*Limitation on obligations*	*170,310,000.*]
[*By transfer*	*4,000,000.*]

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during 1987 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1987, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

$622,050,000
(loan authorization)
239,250,000
(loan authorization)
933,075,000
(loan authorization)

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $20,000,000.

20,000,000

[*Total, Rural Electrification and Telephone Revolving Fund:*

[*New budget (obligational) authority*	*$20,000,000.*]
[*Loan authorization*	*1,794,375,000.*]

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

28,710,000

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

177,045,000
(limitation on obligations)

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,591,000. $1,591,000

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1987, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $29,447,000. 29,447,000

[Total, Rural Electrification Administration:	
[New budget (obligational) authority	*$79,748,000.]*
[Loan authorization	*1,794,375,000.]*
[Limitation on obligations	*177,045,000.]*
[Total, Rural Development Assistance:	
[New budget (obligational) authority	*5,305,692,000.]*
[Loan authorization	*9,064,904,000.]*
[Limitation on obligations	*347,355,000.]*
[By transfer	*4,000,000.]*

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $363,000. 363,000

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings;

and operation and maintenance of aircraft, $367,043,000 of which not less than $4,870,000 is for snow survey and water forecasting and not less than $4,408,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $293,400,000 is for personnel compensation and benefits: *Provided further,* That the cost of any permanent building, purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

$367,043,000

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $11,819,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

11,819,000

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $8,480,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

8,480,000

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $165,885,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $4,755,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

$165,885,000

7,949,000 (loan authorization)

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $25,020,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

25,020,000

1,207,000 (loan authorization)

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended.

20,474,000

[*Total, Soil Conservation Service, $598,721,000.*]

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall

176,935,000

receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided*, That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further*, That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further*, That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further*, That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further*, That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further*, That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $11,891,000, to remain available until expended, as authorized by that Act. $11,891,000

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $8,371,000, to remain available until expended. $8,371,000

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $3,804,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided*, That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further*, That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies. 3,804,000

[*Total, Agricultural Stabilization and Conservation Service, $201,001,000.*]

[*Total, Conservation:*	
[*New budget (obligational) authority*	*$800,085,000.*]
[*Loan authorization*	*9,156,000.*]
[*Total, title II, Rural Development Assistance:*	
[*New budget (obligational) authority*	*6,105,777,000.*]
[*By transfer*	*4,000,000.*]
[*Loan authorization*	*9,064,904,000.*]
[*Limitation on obligations*	*347,355,000.*]

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $330,000. 330,000

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, 1766 and 1769b) and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966

(42 U.S.C. 1773–1785, and 1788–1789); $4,233,617,000, to remain available through September 30, 1988, of which $937,680,000 is hereby appropriated and $3,295,937,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That, of funds provided herein, $775,281,000 shall be available only to the extent an official budget request is transmitted to the Congress: *Provided further*, That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further*, That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further*, That if the funds available for nutrition education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

[1] $937,680,000
3,295,937,000
(by transfer)

775,281,000
(subject to budget request)

SPECIAL MILK PROGRAM

For necessary expenses, to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,869,000, to remain available through September 30, 1988: *Provided*, That only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

14,869,000

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of

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[1] Includes appropriation of $775,281,000 available subject to submission of budget request, which was not submitted at the time this bill was approved. A portion of the estimate was allegedly submitted in the President's fiscal year 1988 budget (H. Doc. 100–3) by increasing the amount of the new budget (obligational) authority in the fiscal year 1987 column. The usual supplemental requests were not received by the Congress.

1966 (42 U.S.C. 1786), $1,663,497,000, to remain available through September 30, 1988: *Provided,* That none of the funds provided herein shall be used to issue interim or final regulations before May 1, 1987, to modify the formula used during fiscal year 1986 to divide funds among State agencies under section 17(i) of such Act to carry out such program, or to implement such regulations before October 1, 1987.

$1,663,497,000

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $2,950,000 for the projects in Detroit, New Orleans, and Des Moines, $41,497,000: *Provided,* That funds provided herein shall remain available through September 30, 1988: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

41,497,000

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2027, 2029), $12,684,665,000: *Provided,* That funds provided herein shall remain available through September 30, 1987, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided further,* That $852,750,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

12,684,665,000

852,750,000
(Puerto Rico)

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)) and section 4(b) of the Food Stamp Act (7 U.S.C. 2013), $193,589,000.

193,589,000

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98–92, these funds shall be available only if the Secretary determines the existence of excess commodities.

50,000,000

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $82,578,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided,* That this

82,578,000

appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

[*Total, Food and Nutrition Service, $15,668,375,000.*]

Human Nutrition Information Service

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $6,876,000: *Provided*, That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225). $6,876,000

[*Total, title III, Domestic Food Programs:*

[*New budget (obligational) authority*	[1] *$15,675,581,000.*]
[*Subject to budget request*	*775,281,000.*]
[*By transfer*	*3,295,937,000.*]

TITLE IV—INTERNATIONAL PROGRAMS

Foreign Agricultural Service

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $81,109,000: *Provided*, That not less than $255,000 of this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis. 81,109,000

Public Law 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $834,727,000, of which $454,727,000 is hereby appropriated and 454,727,000 the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $628,344,000, of which $628,344,000 is hereby appropriated: 628,344,000 *Provided*, That not to exceed 15 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

[*Total, Public Law 480, $1,083,071,000.*]

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[1] Includes appropriation of $775,221,000 available subject to submission of budget request, which was not submitted at the time this bill was approved. A portion of the estimate was allegedly submitted in the President's fiscal year 1988 budget (H. Doc. 100–3) by increasing the amount of the new budget (obligational) authority in the fiscal year 1987 column. The usual supplemental requests were not received by the Congress.

Office of International Cooperation and Development

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,035,000; and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

$5,035,000

SCIENTIFIC ACTIVITIES OVERSEAS

(FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704 (b)(1), (3)), $2,500,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

2,500,000

[*Total, title IV, Rural Development Programs, new budget (obligational) authority, $1,171,715,000.*]

TITLE V—RELATED AGENCIES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $411,803,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the sums provided herein, not to exceed $1,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

411,803,000

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $1,879,000.

1,879,000

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $24,627,000: *Provided*, That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for Rental Payments (FDA) to or from this account.

$24,627,000

[*Total, Food and Drug Administration, $438,309,000.*]

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $29,761,000; including not to exceed $700 for official reception and representation expenses.

29,761,000

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $39,420,000 (from assessments collected from farm credit system banks) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

39,420,000 (limitation on administrative expenses)

[*Total, title V, Related Agencies:*

[*New budget (obligational) authority* .... *$468,070,000.*]

[*Limitation on obligations* .... *39,420,000.*]

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1987 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed seven hundred thirty-four (734) passenger motor vehicles, of which seven hundred twenty-six (726) shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, Buildings and Facilities; Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Rural Housing for Domestic Farm Labor; Agricultural Research Service, Buildings and Facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C. 3152(a)(3)(B)); and Buildings and Facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

Sec. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 620. During fiscal year 1987, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act.

SEC. 622. In fiscal year 1987, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this or any other Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. All funds appropriated for this fiscal year and all funds appropriated hereafter by this or any other Act that are determined to be part of the "extramural budget" of the Department of Agriculture for any fiscal year for purposes of meeting the requirements of section 9 of the Small Business Act (15 U.S.C. 638), as amended by the Small Business Innovation Development Act of 1982, Public Law 97-219, shall be available for contracts, grants or cooperative agreements with small business concerns for any purpose in furtherance of the small business innovation research program. Such funds may be transferred for such purpose from one appropriation to another or to a single account.

SEC. 631. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided*, That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further*, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further*, That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 632. Unless otherwise provided in this Act, none of the funds appropriated in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 633. (A) Disaster Assistance to meet needs resulting from drought in the southeastern states, floods and excessive moisture in Michigan and Oklahoma and other natural disasters in such other states as may be determined by the President.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount, for emergency measures under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000 to remain available until expended.	$10,000,000

Agricultural Stabilization and Conservation Service

EMERGENCY CONSERVATION PROGRAM

For an additional amount, for necessary expenses to carry out the program authorized under title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $10,000,000 to remain available until expended. $10,000,000

EMERGENCY ASSISTANCE TO AGRICULTURAL PRODUCERS

As authorized by existing law, and within the funding levels provided by this Act, for disasters occurring in 1986, the Secretary of Agriculture shall, in the case of any farmer or rancher suffering a major loss from such disaster, direct the Administrator of the Farmers Home Administration to, under such rules and regulations as the Secretary may determine as long as the objective of enabling farmers to stay in business is carried out:

(1) Refinance existing debt at the lowest allowable interest rate and such term as will give the borrower a reasonable chance to repay;

(2) Provide loans for financing 1987 crop production;

(3) Stretch out loan payments over a period of years, and base such payments on regaining our normal fair share of world markets; and

(4) Coordinate disaster assistance programs with the Administrator of the Small Business Administration to assure that all individuals affected by natural disaster are provided with the appropriate financial assistance.

(B) Within the funds made available by this section, the Secretary of Agriculture shall:

(a)(1) As soon as practicable, but not later than forty-five days after the date of application by an eligible producer, make available to eligible producers for losses of production due to drought, excessive heat, floods, hail or excessive moisture in 1986 payments determined in accordance with this subsection.

(2) An eligible producer shall be a producer of the 1986 crop of wheat, feed grains, upland cotton, rice, soybeans, sugar beets, sugar cane or peanuts who—

(A) is eligible to receive price support under section 107D, 105C, 103A, 101A, 201 or 108B of the Agricultural Act of 1949 (7 U.S.C. 1445b–3, 1444e, 1444–1, 1446, or 1445c–2); and

(B) is in a county in which producers are eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, floods, hail or excessive moisture which occurred in 1986.

(3) Payments made available to each eligible producer shall not exceed $100,000 for all crops (without regard to other limitations in farm program payments) and shall be determined for each crop of such commodities by multiplying—

(A) the payment rate; by

(B) the loss of production of the eligible producer.

(4)(A) Except for sugar beets and sugar cane, the payment rate shall be equal to the level of price support established for the crop of the commodity for the farm.

(B) For purposes of determining the payment rate for sugar beets and sugar cane, the Secretary shall establish a payment rate which is fair and reasonable in relation to the level of price support which is established for the 1986 crop of sugar beets and sugar cane.

(5)(A) The loss of production of the eligible producer shall be the quantity of wheat, feed grains, cotton, rice, soybeans, sugar beets

and sugar cane or peanuts that eligible producers on a farm are unable to harvest due to reduced yields or are prevented from planting to such commodity or other nonconserving crops due to drought, excessive heat, floods, hail or excessive moisture in 1986. Such loss of production of the eligible producer for each such crop shall be the difference between—

(i) The result determined by multiplying (I) 50 per centum of the farm program payment yield established for the crop of the commodity, by (II) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary; and

(ii) The actual production on the farm of such crop of the commodity if such quantity is less than the quantity determined in accordance with clause (i).

(B) The sum of the acreage determined in accordance with paragraph (5)(A)(i)(II) shall not exceed—

(i) with respect to wheat, feed grains, upland cotton, or rice, the 1986 permitted acreage determined for such crop of the commodity; and

(ii) with respect to soybeans, peanuts, sugar beets and sugar cane, the acreage so affected but not to exceed the acreage planted in the immediately preceding year to soybeans or peanuts, respectively, for harvest including any acreage that the producer was prevented from planting to such commodity or to other nonconserving crops in lieu of soybeans or peanuts because of drought, excessive moisture, flood, hail, or other natural disaster, or other condition beyond the control of the producer.

(6) Payments determined in accordance with paragraph (3) with respect to any producer with crop insurance shall be reduced to the extent the amount determined by adding the total amount of crop insurance indemnity payments (gross indemnity less premium paid) received by the producer for the loss of production of each crop of such commodities on the farm and the payment determined in accordance with paragraphs (3) through (5) exceeds the amount determined by multiplying—

(A)(i) the quantity determined by multiplying 100 percent of the farm program payment yield established for each crop of such commodities by (ii) the sum of the acreage of each such crop planted to harvest and the acreage for which prevented planted credit is approved by the Secretary (the total not to exceed the quantity determined in accordance with subparagraph (5)(B)); by

(B) the payment rate for each crop of the commodity.

(7) The total amount of payments made under paragraph (3) to producers on a farm with respect to each crop of such commodities and the total amount of price support loans and purchases (and program benefits for sugar beets and sugar cane) made with respect to such crop on such farm may not exceed the amount determined by multiplying—

(A) The farm program payment yield for the crop of the commodity; by

(B) The sum of (i) the acreage of the crop of the commodity planted for harvest and (ii) the acreage for which prevented planted credit is approved by the Secretary, but for each such crop such sum shall not exceed the quantity determined in accordance with subparagraph (5)(B); by

(C) The payment rate for each crop of the commodity.

(8)(A) For purposes of determining the farm program payment yield, the Secretary shall use the 1986 farm program payment yield established for the crop of the commodity or, if such data is not available, a yield determined by the Secretary to be fair and equitable.

(B) Notwithstanding any other provision of this subsection—

(i) a loss of production of quota peanuts from a farm as otherwise determined under paragraph (5) shall be reduced by the quantity of peanut poundage quota which was the basis of such anticipated production which has been transferred from the farm; and

(ii) payments made under this subsection shall be taken into account whether the lost production for which the loss of production is claimed was a loss of production of quota or additional peanuts and the payment rate shall be established accordingly. Further, notwithstanding any other provision of law, the amount of undermarketings of quota peanuts from a farm for the 1986 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 for purposes of future quota increases shall be reduced by the quantity of lost production of such peanuts for which payment has been received under this subsection.

(9) The disaster payments required by this section shall be made in the form of generic, negotiable commodity certificates redeemable from stocks of commodities held by the Commodity Credit Corporation.

(b)(1) notwithstanding any other provision of this section for the 1986 crop year, the Secretary of Agriculture shall utilize certificates redeemable from stocks of commodities held by the Commodity Credit Corporation, for the purpose of making disaster payments to producers of nonprogram crops, in counties in which producers became eligible subsequent to July 1, 1986, to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as the result of drought, excessive heat, flood, hail, or excessive moisture, and

(2) the Secretary of Agriculture shall make such payments (not to exceed $100,000 to any individual producer) if the Secretary determines that—

(A) the producer has suffered a substantial loss of production due to drought, excessive heat, flood, hail, or excessive moisture, and

(B) such loss has created an economic emergency for the producer to the extent that additional assistance must be made available to alleviate such economic emergency, and

(c) Within 30 days following the enactment of this Act the Secretary of Agriculture shall issue such rules and regulations as the Secretary determines necessary to carry out the program authorized by subsections (a) and (b) of this section. Such regulations shall provide that the term "nonprogram crops" shall include all crops insured directly or indirectly by the Federal Crop Insurance Corporation for crop year 1986, and in addition—

(1) the term shall include other commercial crops for which such insurance was not available for purchase or, if available, was not purchased by such by producers for crop year 1986, if—

(A) in accordance with rules and regulations issued by the Secretary of Agriculture, the producer of such crop(s) provides satisfactory evidence of actual crop yield for at least one of the immediately preceding 3 crop years: *Provided*, That in the event such data does not exist for any of the three preceding crop years the Secretary shall use county average crop yield data; and

(B) that the producer of such crop(s) also provides satisfactory evidence of 1986 crop year losses resulting from dought, excessive heat, flood, excessive moisture, or hail exceeding 50 per centum of the crop yield established in subparagraph (A) of this paragraph, and

(2) that payments made available to producers of such crops shall be based upon the average market prices received by producers of such crops, as determined by the Secretary.

(d)(1) The Secretary shall carry out the program authorized by this proviso through the Commodity Credit Corporation.

(2) Applications for payments made in accordance with this proviso must be filed by January 31, 1987.

(3) Payments made by the Secretary of Agriculture to eligible producers under this section shall be made as soon as practicable but not later than 45 days following the producer's application.

(e)(1) The Secretary of Agriculture shall reduce the amount of funds available for emergency insured and guaranteed loans to meet the needs resulting from natural disasters from funds in the Agricultural Credit Insurance Fund by $400,000,000.

(2) For purposes of making payments in accordance with this proviso, there is transferred to the Commodity Credit Corporation $400,000,000 from funds in the Agricultural Credit Insurance Fund. *$400,000,000 (by transfer)*

SEC. 634. Notwithstanding any other provision of law, including section 502(c)(2) of the Housing Act of 1949 (42 U.S.C. 1471 et seq.), none of the funds appropriated under this or any other Act shall be used prior to June 30, 1987 to accept prepayment of any loan made under section 515 of the Housing Act of 1949, unless such loan was made at least twenty years prior to the date of prepayment or, for loans made before December 21, 1979, the Secretary makes a determination that a supply of adequate, comparable housing is available in the community, or that prepayment of such loans will not result in a substantial increase in rents to tenants in residence upon date of prepayment or displacement of such tenants.

SEC. 635. The Secretary of Agriculture may transfer surplus agricultural commodities from inventory to the Department of Defense for use in complementing support provided by the Department of Defense to the Tenth International Pan American Games to be held in Indianapolis, Indiana.

SEC. 636. The Food Security Act of 1985 is amended by inserting at the end thereof the following new sentence: "Effective for each of the 1987 through 1990 crops, the Secretary may not deny a person status as a separate person solely on the ground that a family member cosigns for, or makes a loan to, such person and leases, loans, or gives such person equipment, land or labor, if such family members were organized as separate units prior to December 31, 1985.".

SEC. 637. Section 106A(d)(1)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out the parenthetical phrase in clause (i);

(2) inserting "and" at the end of clause (i);

(3) striking out clause (ii); and,

(4) redesignating clause (iii) as clause (ii).

SEC. 638. (a) Clause (B) of the last sentence of section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking out "for the excess shelter expense deduction contained in clause (2)" and inserting in lieu thereof "contained in clause (1)".

(b)(1) Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) shall become effective 30 days after the date of enactment of this Act.

(2) Except as provided in paragraph (3), the amendment made by subsection (a) shall not apply to an allotment issued to any eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for any month beginning before the effective date of this subsection.

(3) If a State elected before the date of enactment of this Act to compute household income in accordance with section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) (as amended by subsection (a)), the amendment made by subsection (a) shall become effective on May 1, 1986.

SEC. 639. Section 108B(4)(A) of the Agricultural Act of 1949 (7 U.S.C. 1445c–2(4)(A)) is amended by inserting after "additional peanuts" the following: "(other than net gain on additional peanuts in separate type pools established under paragraph (3)(B)(i) for Valen cia peanuts produced in New Mexico)".

SEC. 640. Section 623B(b)(2) of the Community Economic Development Act of 1981 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of law, any Utah or Ohio local public body to which a loan was made after December 31, 1982, from the Rural Development Loan Fund may, at the discretion of such local public body and with the approval of the Secretary of Health and Human Services, transfer such loan to a nonprofit corporation designated by such body to serve as an intermediate borrower and to carry out the purposes of the loan."

SEC. 641. (a) Section 1323(a)(1) of the Food Security Act of 1985 is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and

(b) Section 1323(a) is further amended by adding at the end thereof a new subsection—

"(5) Notwithstanding any provision to the contrary of subsection (4) above, the $20,000,000 which was available pursuant to subsection (4) shall continue to be available and shall be used by the Secretary prior to September 30, 1987, to guarantee loans for the national rural development and finance program and shall remain available until expended.".

and,

(c) Section 1323(b)(1) of such Act is amended by striking out "September 30, 1986," and inserting in lieu thereof "September 30, 1987,", and inserting the words "made or to be" after the word "guarantees". *Provided further,* That such grant funds may be used by such corporation to provide technical assistance and financial assistance, including capitalizing revolving loan programs, pursuant to the Act.

SEC. 642. During fiscal year 1987, the Commodity Credit Corporation shall use $500,000 worth of surplus agricultural commodities owned by the Corporation in establishing and carrying out a research and development program on external combustion engines under section 4(m) of the Commodity Credit Corporation Charter Act. In addition to any sales required under any other Act, the Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than $500,000.

SEC. 643. Section 1231 of the Food Security Act of 1985 is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this subtitle, alfalfa and other multi-year grasses and legumes in a rotation practice, as approved by the Secretary, shall be considered agricultural commodities.".

SEC. 644. Paragraph (16) of section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)(16)) is amended to read as follows:

"(16)(A) Notwithstanding any other provision of law, except as provided in subparagraph (B), compliance on a farm with the terms and conditions of any other commodity program may not be required as a condition of eligibility for loans or payments under this subsection.

"(B) In the case of each of the 1989 and 1990 crops of extra long staple cotton, the Secretary may require that, as a condition of eligibility of producers for loans or payments under this subsection, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect shall not exceed the crop acreage base established for the farm for that commodity.

"(C) Notwithstanding any other provision of law, in the case of each of the 1987 and 1988 crops of extra long staple cotton, compliance with the terms and conditions of the program authorized by this subsection may not be required as a condition of eligibility for loans, purchases, or payments under any other commodity program.".

SEC. 645. The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 3 of Public Law 99-253 (100 Stat. 36)) is amended—

(1) by inserting after the third sentence the following new sentence: "Notwithstanding the preceding sentence, there may be 1 local administrative area in any county for which there had been established less than 3 local administrative areas as of December 23, 1985."; and

(2) in the sixth sentence (as it existed before the amendment made by paragraph (1)), by striking out ": *Provided,*" and all that follows through the period and inserting in lieu thereof a period.

SEC. 646. (1) It is the sense of the Senate that the Secretary of Agriculture should make available not less than $10,000,000 worth of flour and cornmeal using the wheat and cornstocks of the Commodity Credit Corporation. Such flour and cornmeal shall be in addition to the traditional level of assistance made available under section 1114 of the Agriculture and Food Act of 1981, section 416(a) of the Agricultural Act of 1949, section 4 of the Agriculture and Consumer Protection Act of 1973, and any other provision of law administered by the Secretary.

(2)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's and cooperatives and to governments a total of at least 500,000 metric tons of wheat, 500,000 metric tons of soybeans, and 50 million pounds of dairy products under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available under this section during any fiscal year shall be—

(1) subject to the agreement of recipient nations—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the 3 preceding years.

(B) to permit the sale of commodities furnished under this section in the recipient nation and to use the local currency generated from such sales—

(i) by PVO's and cooperatives to carry out approved programs of assistance in the recipient nation;

(ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(iii) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, during the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under this paragraph if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by recipient nations.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of these fiscal years.

(d) It is the sense of Congress that commodities provided for in this subsection be made available to PVO's and cooperatives operating in the Republic of the Philippines, and the government of the Philippines.

(3)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to the friendly countries, under paragraph (b)(11)(A) of section 416 of the Agricultural Act of 1949, at least 500,000 metric tons of wheat and 45 million pounds of dairy products, notwithstanding paragraph (11)(c) of section 416(b) of such Act.

(b) Commodities made available to a nation under this section during any fiscal year shall be—

(1) subject to the agreement of the Nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years.

(B) to sell any commodities furnished under this section within the nation and to use the local currencies generated from such sales to (i) establish and carry out lending programs in such nations in the manner provided for in section 108 of the Agricultural Trade Development and Assistance Act of 1954 and (ii) reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient Nation.

(2) No greater than such amounts as is requested by such governments.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purchases of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that commodities provided for in this subsection be made available to the Philippines and friendly countries of Africa.

(4)(a) During the three-year period beginning with the fiscal year ending September 30, 1987, through the fiscal year ending September 30, 1989, the Secretary of Agriculture shall make available to PVO's cooperatives and governments, 460,000 metric tons of wheat, 137 million pounds of dairy products, and 180,000 metric tons of soybeans; under paragraph (11)(B) of section 416(b) of the Agricultural Act of 1949, notwithstanding paragraph (11)(C) of section 416(b) of such Act.

(b) Commodities made available to a nation, or PVO's and cooperatives operating in such nation, under this section during any fiscal year shall be—

(1) subject to the agreement of the nation—

(A) to acquire through commercial arrangements agricultural commodities directly or by private purchases during the fiscal year in an amount equal to 105 percent of the average amount of such agricultural commodities acquired through commercial arrangements during the preceding three years;

(B) to permit the sale of commodities furnished under this section within the nation and to use the local currencies generated from such sales (i) by PVO's and cooperatives to carry out approved programs of assistance in the country and (ii) to operate lending programs in the manner provided for in section 108 of Public Law 480; and

(C) to reimburse the United States in dollars for costs incurred in furnishing such commodities, including transportation and processing, in the same fiscal year in which such costs were incurred. Reimbursements under this paragraph may be made in local currencies generated from the sale of the commodities under paragraph (2) if they are used to pay expenses of the United States in the recipient nation.

(2) No greater than such amounts as is requested by such government.

(c) To the extent practicable, commodities made available under this section shall be furnished in equal quantities during each of the three fiscal years.

(d) For purposes of this section, the term "friendly countries" shall have the same meaning as that term has under the Agricultural Trade Development and Assistance Act of 1954.

(e) It is the sense of Congress that of the commodities made available under this subsection—

(1) 400,000 metric tons of wheat, 80 million pounds of dairy products and 180,000 metric tons of soybeans be made available to Nigeria;

(2) 1 million metric tons of wheat be made available to friendly countries in Africa, other than Nigeria;

(3) 30,000 metric tons of soybeans, and 50 million pounds of dairy products be made available to India; and

(4) 60,000 metric tons of wheat and 7 million pounds of dairy products be made available to Bangladesh.

[*Total, title VI, General Provisions:*

[*New budget (obligational) authority*	*$20,000,000.*]
[*By transfer*	*400,000,000.*]

This Act may be cited as the "Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987".

[*Total, Agriculture, Rural Development, and Related Agencies Appropriations, 1987:*

[*New budget (obligational) authority*	*$45,727,595,000.*]
[*Subject to budget request*	*3,775,281,000.*]
[*By transfer*	*4,243,594,000.*]
[*Loan authorization*	*9,064,904,000.*]
[*Limitation on obligations*	*451,768,000.*]
[*Limitation on guaranteed loans*	*5,500,000,000.*]

(b) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

(Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987)

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce, including not to exceed $2,000 for official entertainment, $36,300,000.

$36,300,000

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $90,780,000.

90,780,000

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $172,000,000, to remain available until expended.

172,000,000

[*Total, Bureau of the Census, $262,780,000.*]

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs, $30,000,000.

30,000,000

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $180,443,000 of which $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University: *Provided*, That during fiscal year 1987 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further*, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further*, That notwithstanding any provision of title I of the Local Public Works Capital Development and Investment Act of 1976, as amended (Public Law 94-369), or any other provision of law to the contrary, any funds authorized and appropriated under title I of such Act, as amended, in any fiscal year for projects in New York, New York, but obligated as of December 19, 1985 and not disbursed, shall remain available for obligation and expenditure through

180,443,000

150,000,000 (limitation on loan guarantees)

March 31, 1988 for any authorized project in New York, New York, until title I of such Act, as amended, or for any project in New York, New York, determined to be eligible under title I of the Public Works and Economic Development Act of 1965, as amended, if the total amount of such funds is not finally determined by October 15, 1986: *Provided further,* That notwithstanding any other provision of law or a contract to the contrary, the SEDA–COG Joint Rail Authority, Lewisburg, Pennsylvania, may sell any portion of the real property that was acquired in part with proceeds of a grant from the Economic Development Administration (grant number 01–19–02563) and may retain all of the proceeds of any such sale so long as the proceeds are used for purposes which meet the criteria of and are approved by the Economic Development Administration: *Provided further,* That notwithstanding any other provision of law or regulation, including title I of the Public Works and Economic Development Act of 1965, as amended, and OMB Circular A–102 Attachment N, the Administrator of the Economic Development Administration is hereby directed to release, without any further requirement or delay, the funds previously appropriated in Public Law 99–190 to Lexington County, South Carolina, as a direct grant: *Provided further,* That in addition to funds made available pursuant to Public Law 99–190 for infrastructure projects and economic development activities at the site of the General Motors plant in the city of South Gate, California, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $431,012: *Provided further,* That in addition to funds made available pursuant to Public Law 99–190 for infrastructure projects and related economic development activities at the Jasper Industrial Park in Jasper, Alabama, such amounts as may be necessary shall be available for this purpose such that the total amount of funds available shall not exceed $470,224.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $25,000,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1987.

$25,000,000

[*Total, Economic Development Administration, $205,443,000.*]

Regional Development Program

REGIONAL DEVELOPMENT PROGRAMS

(RESCISSION)

Of the funds available for Regional Development Program, "Regional Development Programs", $1,576,000 are rescinded.

−1,576,000
(rescission)

International Trade Administration

OPERATIONS AND ADMINISTRATION

(INCLUDING RESCISSION)

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $253,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use abroad and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $197,500,000, to remain available until expended, of which $6,785,000 is for the Office of Textiles and Apparels, including $3,349,000 for a grant to the Tailored Clothing Technology Corporation and, of which $3,500,000 is for a grant for support costs for a new materials center in Ames, Iowa: *Provided*, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: *Provided further*, That none of the funds appropriated herein may be used for activities associated with conferences, trade shows, expositions, and/or seminars which feature or convey the advantages of relocating U.S. industries, manufacturing and/or assembly plants, or companies, in a foreign country. [1] $197,500,000

Of available funds under this head provided for direct loans in Public Law 98-411 and Public Law 99-180, $8,100,000 are rescinded. −8,100,000 *(rescission)*

[*Total, International Trade Administration (net), $189,400,000.*]

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,675,000, of which $26,080,000 shall remain available until expended: *Provided*, That not to exceed $13,595,000 shall be available for program management for fiscal year 1987: *Provided further*, That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures. 39,675,000

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and carrying out the provisions of the 1981 Tourism Policy Act; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $8,000 for representation expenses abroad: $11,500,000.

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[1] In addition, $1,500,000 available by transfer from the Department of Defense Appropriation Bill, 1987, "Operation and Maintenance, Defense Agencies" (see p. 271, this volume).

$11,500,000

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 399 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,038,588,000, to remain available until expended, of which $27,500,000 shall be available only for commercialization of the land remote sensing satellite system subject to the approval of the House and Senate Committees on Appropriations pursuant to section 607 of this Act; and in addition, $29,000,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $51,800,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $9,673,000 shall be derived by transfer from the Coastal Energy Impact Fund; and in addition, $1,800,000 shall be derived by transfer from the Fisheries Loan Fund: *Provided*, That grants to States pursuant to section 306 and section 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further*, That of the funds appropriated in this paragraph, necessary funds shall be used to fill and maintain a staff of three persons, as National Oceanic and Atmospheric Administration personnel, to work on contracts and purchase orders at the National Data Buoy Center in Bay St. Louis, Mississippi, and report to the Director of the National Data Buoy Center in the same manner and extent that such procurement functions were performed at Bay St. Louis prior to June 26, 1983, except that they may provide procurement assistance to other Department of Commerce activities pursuant to ordinary interagency agreements. Where practicable, these positions shall be filled by the employees who performed such functions prior to June 26, 1983.

1,038,588,000

29,000,000
51,800,000
(by transfer)

9,673,000
(by transfer)
1,800,000
(by transfer)

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $750,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

750,000

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $2,000,000, to remain available until expended. $2,000,000

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $1,800,000 to be derived from the receipts collected pursuant to that Act, to remain available until expended. 1,800,000

[*Total, National Oceanic and Atmospheric Administration:*
[*New budget (obligational) authority .... $1,072,138,000.*]
[*By transfer .... 63,273,000.*]

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $98,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended. 98,000,000

NATIONAL BUREAU OF STANDARDS

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Bureau of Standards, $122,000,000 to remain available until expended, of which not to exceed $2,144,000 may be transferred to the "Working Capital Fund". 122,000,000

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law of the National Telecommunications and Information Administration, $13,000,000 of which $700,000 shall remain available until expended. 13,000,000

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $20,500,000 to remain available until expended: *Provided,* That not to exceed $1,200,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year. 20,500,000

[*Total, National Telecommunications and Information Administration, $33,500,000.*]

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds available to the Department of Commerce shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advance payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations to the Department of Commerce which are available for salaries and expenses shall be available for hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriation Act, 1987".

Total, title I, Department of Commerce:

[New budget (obligational) authority (net)....	*$2,099,160,000.]*
[Appropriations	*2,108,836,000.]*
[Rescissions	*−9,676,000.]*
[By transfer	*63,273,000.]*
[Limitation on loan guarantees	*150,000,000.]*

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $67,000,000: *Provided,* That none of the funds in this Act shall be used for positions for the Departmental Leadership offices of the Department of Justice in excess of 56. $67,000,000

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,300,000. 10,300,000

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $208,934,000, of which not to exceed $6,000,000 208,934,000 for litigation support contracts shall remain available until September 30, 1988: *Provided,* That of the funds available in this appropriation, $1,537,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys and the Antitrust Division, to remain available until expended: *Provided further,* That of the funds appropriated to the Department of Justice in title II of this Act, not to exceed $1,000,000, may be transferred to this appropriation to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq., upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate and approval under said Committees' policies concerning the reprogramming of funds contained in section 607 of this Act.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $43,000,000 $43,000,000

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $320,000,000. 320,000,000

SALARIES AND EXPENSES, OVERSIGHT OF BANKRUPTCY CASES

For necessary expenses of the bankruptcy trustees, $11,500,000. 11,500,000 Effective immediately before November 10, 1986, section 408(c) of the Act of November 6, 1978 (Public Law 95–598; 92 Stat. 2687), is amended by striking out "November 10, 1986" and inserting in lieu thereof "September 30, 1987".

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $564,000. 564,000

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft, $142,000,000. 142,000,000

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $50,000,000; and in addition, $5,000,000 shall be available under the Cooperative Agreement Program until expended for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided*, That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further*, That following agreement on or completion of any Federally assisted correctional facility construction, the availability of the space acquired for 50,000,000 5,000,000

Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement: *Provided further,* That funds earmarked for the support of United States prisoners in non-Federal institutions in the Department of Justice Appropriations Acts, 1984 and 1985, that remain unobligated at the end of fiscal year 1986, are restored effective immediately before September 30, 1986, for the purpose of liquidating any 1986 obligations for that activity that cannot be funded from 1986 appropriations.

[*Total, Support of United States Prisoners, $55,000,000.*]

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses and for per diems in lieu of subsistence, as authorized by law, including advances; $52,187,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

$52,187,000

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $29,637,000 of which $23,266,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

29,637,000

[*Total, Legal Activities, $862,822,000.*]

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand five hundred seventy-nine passenger motor vehicles of which one thousand four hundred fifty will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,260,000,000, of which not to exceed $10,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1988; of which $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement

1,260,000,000

agencies while engaged in cooperative activities related to terrorism: *Provided*, That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit not more than $15,500,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That $13,800,000 for the expansion and renovation of the New York field office shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed five hundred seventy-five passenger motor vehicles of which four hundred eighty-nine are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $412,000,000 of which not to exceed $1,200,000 for research shall remain available until expended and not to exceed $1,700,000 for purchase of evidence and payments for information shall remain available until September 30, 1988: *Provided*, That $140,000 shall only be available for the establishment and operation of an office in Hilo, Hawaii: *Provided further*, That notwithstanding section 1345 of title 31, United States Code, funds made available to the Drug Enforcement Administration in any fiscal year may be used for travel, transportation, and subsistence expenses of State, county, and local law enforcement officers attending conferences, meetings, and training courses at the FBI Academy, Quantico, Virginia. $412,000,000

CONSTRUCTION

For necessary expenses of the Drug Enforcement Administration for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for an all source intelligence center, $7,500,000, to remain available until expended: *Provided*, That such funds shall be available for obligation upon submission by the Attorney General to the Committees on Appropriations no later than July 1, 1987, of a reprogramming request in accordance with section 607 of this Act which sets forth specific details for the use of such funds. 7,500,000

[*Total, Drug Enforcement Administration, $419,500,000.*]

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed four hundred ninety, all of which shall be for replacement only) and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $593,000,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That no funds appropriated in this Act may be used to implement Immigration and Naturalization Service reorganization proposals which would have the purpose of or would result in the closing of the Northern Regional Office of the Immigration and Naturalization Service at Fort Snelling, Minnesota: *Provided further*, That effective immediately before September 30, 1986, $3,385,000 made available for "Construction" for the Immigration and Naturalization Service in Public Law 99-88 shall be available for the Immigration and Naturalization Service, "Salaries and Expenses".

$593,000,000

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed forty of which thirty are for replacement only) and hire of law enforcement and passenger motor vehicles; $598,807,000: *Provided*, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year.

598,807,000

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,000,000, to remain available until expended.

9,000,000

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $122,511,000, to remain available until expended: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation.

122,511,000

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation

Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of not to exceed five (for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,157,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $7,208,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

$2,157,000 (limitation on expenses)
7,208,000 (limitation on expenses)

[*Total, Federal Prison System, $730,318,000.*]

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act including salaries and expenses in connection therewith, $115,368,000 and of the unobligated funds previously appropriated for the Juvenile Justice and Delinquency Prevention Act, other than funds subject to provisions of sections 222(b), 223(d), and 228(e) of title II of such Act, $3,500,000 shall be made available for programs authorized under parts D and E of the Justice Assistance Act of 1984, all funds appropriated herein to remain available until expended; and for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $70,282,000 to remain available until expended. In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1986 through September 30, 1987, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1987, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1987, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000. Not to exceed $64,000,000 shall be obligated during fiscal year 1987 for victim compensation and assistance programs, notwithstanding section 1402, 1403, or 1404 of the Victims of Crime Act of 1984 (Public Law 98–473).

115,368,000
70,282,000
5,000,000
64,000,000 (limitation on Crime Victims Assistance, P.L. 98–473.)

[*Total, Justice Assistance, $190,650,000.*]

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law or this Act, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counter-intelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1987, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code, only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1987—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operation" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356) is amended by inserting after subsection (c) the following new subsections:

"(d) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Attorney General shall charge and collect $5 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

"(e) LIMITATIONS ON FEES.—(1) No fee shall be charged under subsection (d) for immigration inspection or preinspection provided in connection with the arrival of any passenger whose journey originated in the following:

"(A) Canada,

"(B) Mexico,

"(C) a territory or possession of the United States, or

"(D) any adjacent island (within the meaning of section 101(b)(5) of this title).

"(2) No fee may be charged under subsection (d) with respect to the arrival of any passenger—

"(A) who is in transit to a destination outside the United States, and

"(B) for whom immigration inspection services are not provided.

"(f) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

"(A) collect from that individual the fee charged under subsection (d) at the time the document or ticket is issued; and

"(B) identify on that document or ticket the fee charged under subsection (d) as a Federal inspection fee.

"(2) If—

"(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

"(B) the fee charged under subsection (d) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

"(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

"(g) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—Notwithstanding section 1353(a) of this title, or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (d)) to airlines and airline passengers at:

"(1) immigration serviced airports, and

"(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

"(h) DISPOSITION OF RECEIPTS.—(1)(A) All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the 'Immigration User Fee Account.' At the end of each 2-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

"(B) Notwithstanding any other provisions of law, all fines, penalties, liquidated damages or expenses collected pursuant to sections 271 and 273 of this title shall be deposited in the 'Immigration User Fee Account.'

"(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and:

"(i) providing overtime immigration inspection services for commercial aircraft or vessels;

"(ii) administration of debt recovery, including the establishment and operation of a national collections office;

"(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

"(iv) detection of fraudulent documents used by passengers traveling to the United States;

"(v) providing detention and deportation services for excludable aliens arriving on commercial aircraft and vessels.

"(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

"(i) Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

"(j) REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

"(k) ADVISORY COMMITTEE.—In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

"(l) EFFECTIVE DATES.—(1) The provisions of this section and the amendments made by this section, shall apply with respect to immigration inspection services rendered after November 30, 1986.

"(2) Fees may be charged under subsection (d) only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.".

SEC. 206. Section 232 (8 U.S.C. 1222) is amended by striking "on board the vessel or at the airport" and all that follows through "as circumstances may require or justify," and inserting in lieu thereof "by the Attorney General", and section 233 (8 U.S.C. 1223) is repealed.

SEC. 207. Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(b)) is amended—

(1) in subsection (3) by striking the semicolon at the end thereof and inserting in lieu thereof "and an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire, rescue or police emergency;"; and

(2) in subsection (7) by striking all after the words "law enforcement officer" and inserting ", a firefighter, or rescue squad or ambulance crew "

SEC. 208. (a) None of the funds appropriated or otherwise made available in this title may be available for the performance of any pre-inspection activities by the Immigration and Naturalization Service (1) at Shannon International Airport in Ireland or (2) at Gander Airport in Newfoundland.

(b) The General Accounting Office shall conduct a comprehensive analysis of the trial pre-inspection program conducted by the Immigration and Naturalization Service at Shannon International Airport from July 1, 1986 to October 31, 1986, and shall issue a report to Congress by April 30, 1987. The report shall include an evaluation of the economic impact on American airports and of whether pre-inspection is a cost-effective means of facilitating international air travel and enhancing law enforcement.

SEC. 209. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 210. The Director of the Federal Bureau of Investigation and the Administrator of the Drug Enforcement Administration shall not establish and collect fees to provide training to State and local law enforcement officers at the FBI National Academy. Any fees collected for training of State and local law enforcement officers, which occurred at the National Academy on or after October 1, 1986, shall be reimbursed to the appropriate official or agency. In addition, the Director of the National Institute of Corrections shall not establish and collect fees to provide training to State and local officers which was not provided on a reimbursable basis prior to October 1, 1986.

This title may be cited as the "Department of Justice Appropriation Act, 1987".

[*Total, title II, Department of Justice:*	
[*New budget (obligational) authority (all definite appropriations)*	*$4,133,590,000.*]
[*Limitation on obligations*	*73,365,000.*]

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945), expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; not to exceed $4,000,000 for expenses necessary for the Inspector General of the Department of State, pursuant to the Inspector General Act of 1978; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; permanent representation to certain international organizations in which the United States participates pursuant to treaties, conventions, or specific Acts of Congress; acquisition by exchange or purchase of vehicles as authorized by law, except that special requirement vehicles may be purchased without regard to any price limitation otherwise established by law; $1,527,000,000. $1,527,000,000

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), and for representation by United States missions to the United Nations and the Organization of American States, $4,460,000. $4,460,000

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000. 9,100,000

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $440,000,000, of which $15,000,000 shall become available for expenditure on October 1, 1987, to remain available until expended: *Provided,* That the funds appropriated in this paragraph shall be available subject to the approval of the House and Senate Committees on Appropriations under said Committees' policies concerning the reprogramming of funds contained in House Report 99-669: *Provided further,* That balances of previous appropriations for "Acquisition, operation, and maintenance of buildings abroad" shall be transferred to and merged with this appropriation: *Provided further,* That up to $1,000,000 shall be available for transfer under the Economy Act to the Director of the National Bureau of Standards for the purpose of conducting an independent analysis of the new United States embassy office building being constructed in Moscow: *Provided further,* That a report including this analysis, an assessment of the current structure and recommendations and cost estimates for correcting any structural flaws or construction defects shall be transmitted by the Director of the National Bureau of Standards to the Speaker of the House of Representatives and the President of the Senate no later than April 15, 1987: *Provided further,* That beginning on February 1, 1987, the Secretary of State shall report every six months to the Speaker of the House of Representatives and the President of the Senate on any failures during the past six months by Soviet agencies to perform obligations to United States diplomats or United States missions to the Soviet Union and the actions undertaken by the Department of State to redress these failures. 440,000,000

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service to be expended pursuant to the requirement of 31 U.S.C. 3526(e), $4,000,000. 4,000,000

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $9,379,000. 9,379,000

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $127,398,000. 127,398,000

[*Total, Administration of Foreign Affairs, $2,121,337,000.*]

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties, conventions, or specific Acts of Congress, $385,000,000, of which $130,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987: *Provided*, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings. $385,000,000

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, $29,400,000. 29,400,000

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations, and personal services without regard to civil service and classification laws, $5,460,000, to remain available until expended, of which not to exceed $200,000 may be expended for representation as authorized by law. 5,460,000

[*Total, International Organizations and Conferences, $419,860,000.*]

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, conventions, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the United States and Mexico International Boundary and Water Commission, and to comply with laws applicable to the United States Section; and leasing of private property to remove therefrom sand, gravel, stone, and other materials, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, $10,800,000: *Provided*, That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89): *Provided further*, That the Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of such portions of the cost of said dam as shall have been allocated to such purposes by the Secretary of State: *Provided further*, That not to 10,800,000 exceed $500,000 of the amount appropriated in this paragraph shall be available to reimburse the city of San Diego, in the State of California, for expenses incurred in treating domestic sewage received from the city of Tijuana, in the State of Baja California, Mexico.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For detailed plan preparation and construction of authorized projects, to remain available until expended, $3,900,000: *Provided,* That activities for the New River Project may be financed from these funds or from carry over balances under the heading, "International Boundary and Water Commission, United States and Mexico, Construction". $3,900,000

[*Total, International Boundary and Water Commission, United States and Mexico, $14,700,000.*]

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $6,000 for representation, $3,700,000; for the International Joint Commission, including salaries and expenses of the Commissioners on the part of the United States who shall serve at the pleasure of the President; salaries of employees appointed by the Commissioners on the part of the United States with the approval solely of the Secretary of State; travel expenses and compensation of witnesses; and the International Boundary Commission, for necessary expenses, not otherwise provided for, including expenses required by awards to the Alaskan Boundary Tribunal and existing treaties between the United States and Canada or Great Britain. 3,700,000

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, $10,800,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions. 10,800,000

[*Total, International Commissions, $29,200,000.*]

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For expenses, not otherwise provided for, to enable the United States to participate in programs of scientific and technological cooperation with Yugoslavia, $1,900,000, to remain available until expended. 1,900,000

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, $8,800,000, to remain available until expended. 8,800,000

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses not otherwise provided to enable the Secretary of State to reimburse private firms and American institutions of higher education for research contracts and graduate training for development and maintenance of knowledge about the Soviet Union and Eastern European countries, $4,600,000. 4,600,000

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger or freight transportation.

SEC. 302. The Secretary of State shall report to the appropriate Committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every thirty days from the date of enactment of this Act.

This title may be cited as the "Department of State Appropriation Act, 1987".

[*Total, title III, Department of State, new budget (obligational) authority (all definite appropriations), $2,585,697,000.*]

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase, or hire, driving, maintenance and operation of an automobile for the Chief Justice and not to exceed $10,000 for the purpose of transporting Associate Justices, hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $14,600,000. $14,600,000

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, and for security installations both without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5); $2,279,000, of which $375,000 shall remain available until expended. 2,279,000

[*Total, Supreme Court of the United States, $16,879,000.*]

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for all necessary expenses of the court, $6,800,000. 6,800,000

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, including exchange of books and traveling expenses, as may be approved by the court; $7,000,000: *Provided,* That travel expenses of judges of the Court of International Trade shall be paid upon written certificate of the judge. 7,000,000

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and all necessary expenses of the courts, including the purchase of firearms and ammunition, $929,500,000, of which not to exceed $160,000,000 shall be available for payment of charges for space and facilities: *Provided,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties. $929,500,000

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by law; $68,378,000, to remain available until expended. 68,378,000

FEES OF JURORS AND COMMISSIONERS

For fees and expenses and refreshments of jurors; compensation of jury commissioners; and compensation of commissioners appointed in condemnation cases pursuant to Rule 71A(h) of the Federal Rules of Civil Procedure; $44,635,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code. 44,635,000

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $36,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General. 36,000,000

[*Total, Courts of Appeals, District Courts, and Other Judicial Services, $1,078,513,000.*]

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts, including travel, advertising, hire of a passenger motor vehicle, and rent in the District of Columbia and elsewhere, $29,500,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses. $29,500,000

Federal Judicial Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $9,600,000. 9,600,000

Bicentennial Expenses, The Judiciary

BICENTENNIAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses to be incurred by the Judiciary for the observance of the Bicentennial of the Constitution of the United States, $1,000,000, to remain available until expended. Funds appropriated under this heading in The Judiciary Appropriation Act, 1976, shall also be available for this purpose. 1,000,000 *500,000 (by transfer)*

United States Sentencing Commission

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,800,000. 5,800,000

General Provisions—The Judiciary

Sec. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

Sec. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

Sec. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

Sec. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Administrator of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1987.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Pursuant to section 140 of Public Law 97-92, during fiscal year 1987, justices and judges of the United States shall receive the same percentage increase in salary accorded to employees paid under the General Schedule (pursuant to 5 U.S.C. 5305).

SEC. 407. (a) Section 1914(a) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$120".

(b) Section 1930(a)(1) of title 28, United States Code, is amended by striking out "$60" and inserting in lieu thereof "$90".

(c) Chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 1931. Disposition of filing fees

"The following portion of moneys paid to the clerk of court as filing fees under this chapter shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States as provided in annual appropriation Acts:

"Under section 1914(a), $60.".

(d) The table of section headings preceding chapter 123 of title 28, United States Code, is amended by adding at the end thereof the following:

"1931. Disposition of filing fees.".

This title may be cited as "The Judiciary Appropriation Act, 1987".

[*Total, title IV, The Judiciary:*
[*New budget (obligational) authority (all definite appropriations)* .... *$1,155,092,000.*]
[*By transfer* .... *500,000.*]

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $320,000,000, to remain available until expended. *$320,000,000 (liquidation of contract authority)*

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development activities, as authorized by law, $3,500,000, to remain available until expended. 3,500,000

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $64,000,000, to remain available until expended: *Provided*, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program. 64,000,000

GENERAL PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

[*Total, Department of Transportation, $67,500,000.*]

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $48,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $29,000,000.

$29,000,000

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to RFE/RL, Inc., $140,000,000, of which not to exceed $52,000 may be made available for official reception and representation expenses, and of which $15,000,000, to remain available until expended, shall become available for expenditure on October 1, 1987.

140,000,000

15,000,000 (limitation on expenditures)

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission, $220,000, to remain available until November 15, 1992.

220,000

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $13,200,000, to remain available until expended, of which $3,700,000 is for carrying out the provisions of Public Law 99-194, including $2,700,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,000,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

13,200,000

Commission on Civil Rights

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,500,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided*, That not to exceed $20,000 may be used to employ consultants: *Provided further*, That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further*, That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further*, That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further*, That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days. $7,500,000

Commission on Security and Cooperation in Europe

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $526,000 to remain available until expended: *Provided*, That not to exceed $6,000 of such amount shall be available for official reception and representation expenses. 526,000

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $165,000,000. 165,000,000

Federal Communications Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $700,000 for land and structures; not to exceed $200,000 for improvement and care of grounds and repair to buildings; not to exceed $3,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $95,000,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1988, for research and policy studies: *Provided*, That notwithstanding any other provision of law, the Federal Communications Commission, during fiscal year 1987, may recover the costs incurred to assess and collect charges authorized by section 5002 of Public Law 99-272 from receipts generated by such charges: 95,000,000

Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That funds appropriated to the Federal Communications Commission by this Act shall be used to consider alternative means of administration and enforcement of the Fairness Doctrine and to report to the Congress by September 30, 1987

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $11,600,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses. $11,600,000

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; the sum of $65,000,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374): *Provided further,* That (a) The Federal Trade Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Energy and Commerce of the House of Representatives and to the Appropriations Committees of the Senate and House of Representatives the information specified in subsection (b) of this section every 6 months during fiscal year 1987. A report containing such information shall be submitted when the Commission submits its annual report to the Congress during such fiscal year, and such report may be included in the annual report. A separate report containing such information shall be submitted 6 months after the date of submission of any such annual report. Each such report shall contain such information for the period since the last submission under this section. 65,000,000

(b) Each such report shall list and describe, with respect to instances in which predatory pricing practices have been suspected or alleged—

(1) each complaint made, orally or in writing, to the offices of the Commission;

(2) each preliminary investigation opened or closed at the Commission;

(3) each formal investigation opened or closed at the Commission;

(4) each recommendation for the issuance of a complaint forwarded by the staff to the Commission;

(5) each complaint issued by the Commission;

(6) each opinion and order entered by the Commission;

(7) each consent agreement accepted provisionally or finally by the Commission;

(8) each request for modification of an outstanding Commission order filed with the Commission;

(9) each recommendation by staff pertaining to a request for modification of an outstanding Commission order; and

(10) each disposition by the Commission of a request for modification of an outstanding Commission order.

Such report shall include copies of all such consent agreements and complaints executed by the Commission referred to in such report. Where a matter has been closed or terminated, the report shall include a statement of the reasons for that disposition. The descriptions required under this subsection shall be as complete as possible but shall not reveal the identity of persons or companies complained about or those subject to investigation that have not otherwise been made public. The report shall include any evaluation by the Commission of the potential impacts of predatory pricing upon businesses (including small businesses.)

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $33,900,000 of which $4,000,000 shall remain available until expended for expenses related to relocation of the Commission. $33,900,000

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,408,000, to remain available until expended; and an amount of Japanese currency not to exceed the equivalent of $1,200,000 based on exchange rates at the time of payment of such amounts, to remain available until expended: *Provided,* That not to exceed a total of $2,500 of such amounts shall be available for official reception and representation expenses. 1,408,000 *(trust funds)* *(1,200,000)* *(foreign currency)*

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $305,500,000 of which $261,293,672 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,339,800 is for program development and law school clinics, $1,000,000 is for supplemental field programs, $623,964 is for regional training centers, $376,036 is for training development and technical assistance, $7,528,218 is for national support, $7,842,866 is for state support, $865,000 is for the Clearinghouse, $510,444 is for computer assisted legal research grants, and $7,400,000 is for Corporation management and administration: *Provided,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to 305,500,000 any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1987 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1987 at not less than 1 percent more than the annual level at which each grantee and contractor was funded in fiscal year 1986 or $8.30 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $14.56 per poor person within its geographical area under the 1980 census:

Provided further, That if a Presidential Order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1987, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs, to be distributed in the manner specified by this paragraph, if the Appropriations Committees of both Houses of Congress have been notified pursuant to section 607 of this Act: *Provided further,* That none of the funds appropriated by this Act may be used to implement or enforce the regulations issued by the Legal Services Corporation regarding legislative and administrative advocacy (45 CFR part 1612) printed for final publication in the "Federal Register" on May 31, 1984, (49 FR 22651) and on August 1, 1986 (51 FR 27539).

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $900,000. $900,000

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $13,300,000: *Provided,* That not to exceed $59,000 shall be available for official reception and representation expenses. 13,300,000

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $110,500,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners. 110,500,000

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including purchase of one motor vehicle for replacement only, and hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $162,000,000; and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended, $35,000,000: *Provided*, That notwithstanding any other provision of law, the Small Business Administration is authorized to recognize all costs incurred prior to December 16, 1980, by a small business development center at the University of Georgia in pursuit of the purposes of the small business development center program as allowable costs chargeable to a fiscal year 1981 cooperative agreement, provided such costs were incurred subsequent to October 1, 1979, and have not been reimbursed from non-Federal sources. In addition, $92,000,000 for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

$162,000,000

35,000,000

92,000,000
(by transfer)

[*Total, Salaries and Expenses, $197,000,000.*]

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $164,000,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $97,000,000, to remain available without fiscal year limitation.

164,000,000

97,000,000

[*Total, Business Loan and Investment Fund, $261,000,000.*]

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

9,497,000

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $14,245,000, to remain available without fiscal year limitation.

14,245,000

[*Total, Small Business Administration, new budget (obligational) authority (all definite appropriations), $481,742,000.*]

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $7,200,000 to remain available until expended.

$7,200,000

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by Reorganization Plan No. 2 of 1977, the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of which $250,000 is to facilitate United States participation in international expositions abroad); expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000; $570,000,000, none of which shall be restricted from use for the purposes appropriated herein: *Provided,* That not to exceed $1,000,000 may be used for representation abroad: *Provided further,* That not to exceed $15,558,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That receipts not to exceed $1,000,000 may be credited to this appropriation from fees or other payments received from or in connection with English-teaching programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That not to exceed $2,750,000 shall be available for the Office of Inspector General.

570,000,000

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship and Congress-Bundestag Exchange Programs, as authorized by Reorganization Plan No. 2 of 1977 and the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), $135,270,000, of which $24,270,000, to remain available until expended, shall be available for expenditure on October 1, 1987. For the Private Sector Exchange Programs, $9,730,000 of which $730,000, to remain available until expended, shall be available for expenditure on October 1, 1987, and of which $1,500,000, to remain available until expended, is for the Eisenhower Exchange Fellowship Program notwithstanding section 209 of Public Law 99-93.

135,270,000

9,730,000

[*Total, Educational and Cultural Exchange Programs, $145,000,000.*]

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $46,000,000, to remain available until

46,000,000

expended: *Provided,* That not to exceed $12,000,000 of these funds shall be available for construction of facilities for Radio In the American Sector: *Provided further,* That such amounts as may be necessary shall be available until expended for contingent termination or cancellation costs: *Provided further,* That the Funds appropriated in this paragraph shall be available for expenditure on October 1, 1987. $20,000,000 (*indefinite*)

[Total, Radio Construction:	
[New budget (obligational) authority	*$66,000.000.]*
[Appropriations, definite	*46,000,000.]*
[Appropriations, indefinite	*20,000,000.]*

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception, $11,250,000, to remain available until expended. 11,250,000

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the highest rate authorized in the General Schedule of the Classification Act of 1949, as amended. 20,000,000

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,000,000. 15,000,000

ADMINISTRATIVE PROVISION—UNITED STATES INFORMATION AGENCY

Funds appropriated under this title to the United States Information Agency shall be available notwithstanding the provisions of sections 203, 204, 205, and 210(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93).

[Total, United States Information Agency:	
[New budget (obligational) authority	*$827,250,000.]*
[Appropriations, definite	*807,250,000.]*
[Appropriations, indefinite	*20,000,000.]*
[Total, title V, Related Agencies:	
[New budget (obligational) authority	*2,376,246,000.]*
[Appropriations, definite	*2,356,246,000.]*
[Appropriations, indefinite	*20,000,000.]*
[By transfer	*92,000,000.]*
[Liquidation of contract authority	*320,000,000.]*
[Foreign currency availability	*1,200,000.]*
[Limitation on obligations	*15,000,000.]*

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. None of the funds appropriated in titles II and V of this Act may be used for any activity to alter the per se prohibition on resale price maintenance in effect under Federal antitrust laws: *Provided*, That nothing in this provision shall prohibit any employee of a department or agency for which funds are provided in titles II and V of this Act from presenting testimony on this matter before appropriate committees of the House and Senate.

SEC. 606. None of the funds appropriated by this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion, except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 607. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 608. (a) Notwithstanding any provision of chapter 11 of title 11, United States Code, the trustee shall pay benefits until May 15, 1987 to retired former employees under a plan, fund, or program maintained or established by the debtor prior to filing a petition (through the purchase of insurance or otherwise) for the purpose of providing medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death.

(b) This section is effective with respect to cases commenced under chapter 11, of title 11, United States Code, in which a plan for reorganization has not been confirmed by the court and in which any such benefit is still being paid on October 2, 1986, and in cases that become subject to chapter 11, title 11, United States Code, after October 2, 1986.

(c) This section shall not apply during any period in which a case is subject to chapter 7, title 11, United States Code.

TITLE VII—CHILD ABUSE VICTIMS' RIGHTS ACT OF 1986

SHORT TITLE

SEC. 701. This title may be cited as the "Child Abuse Victims' Rights Act of 1986".

FINDINGS

SEC. 702. The Congress finds that—

(1) child exploitation has become a multi-million dollar industry, infiltrated and operated by elements of organized crime, and by a nationwide network of individuals openly advertising their desire to exploit children;

(2) Congress has recognized the physiological, psychological, and emotional harm caused by the production, distribution, and display of child pornography by strengthening laws prescribing such activity;

(3) the Federal Government lacks sufficient enforcement tools to combat concerted efforts to exploit children prescribed by Federal law, and exploitation victims lack effective remedies under Federal law; and

(4) current rules of evidence, criminal procedure, and civil procedure and other courtroom and investigative procedures inhibit the participation of child victims as witnesses and damage their credibility when they do testify, impairing the prosecution of child exploitation offenses.

CIVIL REMEDY FOR PERSONAL INJURY

SEC. 703. (a) Chapter 110 of part I of title 18, United States Code, is amended by redesignating section 2255 as section 2256, and by inserting after section 2254 the following:

"§ 2255. Civil remedy for personal injuries

"(a) Any minor who is a victim of a violation of section 2251 or 2252 of this title and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any minor as described in the preceding sentence shall be deemed to have sustained damages of no less than $50,000 in value.

"(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability ".

(b) The table of sections for chapter 110 of part I of title 18, United States Code, is amended by striking out the item relating to section 2255 and inserting in lieu thereof the following:

"2255. Civil remedy for personal injuries.
"2256. Definitions for chapter.".

MINIMUM SENTENCE FOR REPEAT OFFENDERS

SEC. 704. (a) Section 2251(c) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

(b) Section 2252(b) of title 18, United States Code, is amended by striking out "or imprisoned not less than two years" and inserting in lieu thereof "or imprisoned not less than five years".

ATTORNEY GENERAL REPORT

SEC. 705. (a) Within one year after the date of enactment of this title, the Attorney General shall submit a report to Congress detailing possible changes in the Federal Rules of Evidence, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, and other Federal courtroom, prosecutorial, and investigative procedures which would facilitate the participation of child witnesses in cases involving child abuse and sexual exploitation.

(b) In preparing the report, the Attorney General shall consider, but not be limited to, such changes as—

(1) use of closed-circuit cameras, two-way mirrors, and other out-of-court statements;

(2) judicial discretion to circumscribe use of harassing, overly complex, and confusing questions against child witnesses;

(3) use of videotape in investigations to reduce repetitions of interviews;

(4) streamlining investigative procedures; and

(5) improved training of prosecutorial and investigative staff in special problems of child witnesses, including handicapped children.

TITLE VIII

JAMES MADISON MEMORIAL FELLOWSHIP

SHORT TITLE

SEC. 801. This title may be cited as the "James Madison Memorial Fellowship Act".

PURPOSE

SEC. 802. It is the purpose of this title to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

FOUNDATION

SEC. 803. (a) In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b)(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(c) Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

FELLOWSHIP RECIPIENTS

SEC. 804. (a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other appropriate masters degree for teachers, with a major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graduate degree on a part-time basis during summers or in evening programs.

PERIOD FOR AWARD

SEC. 805. Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

RECIPIENT'S CHOICE OF INSTITUTION

SEC. 806. Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

RECIPIENT'S ELIGIBILITY

SEC. 807. Each student awarded a fellowship under this title shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this Act shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which asistance was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

SELECTION OF FELLOWSHIP RECIPIENTS

SEC. 808. (a) Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b)(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a demonstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

AMOUNT OF FELLOWSHIPS

SEC. 809. Each student awarded a fellowship shall receive a stipend which shall not exceed the cost to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

FELLOWSHIP CONDITIONS

SEC. 810. (a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

JAMES MADISON MEMORIAL FELLOWSHIP TRUST FUND

SEC. 811. (a)(1) There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution an other private sources to be available, in accordance with the provisions of this title, to carry out the provisions of this title.

(2) No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000.

(b) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES AND AUDIT

SEC. 812. (a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this title.

(b) The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

EXECUTIVE SECRETARY OF FOUNDATION

SEC. 813. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5.

ADMINISTRATIVE PROVISIONS

SEC. 814. (a) The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS–15 of the General Schedule set forth in section 5332 of title 5;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31;

(8) to rent office space;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America; and

(10) to make other necessary expenditures.

(b) The foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

DEFINITIONS

SEC. 815. As used in this title—

(1) the term "Board" means the Board of Trustees of the James Madison Memorial Fellowship Foundation;

(2) the term "Foundation" means the James Madison Memorial Fellowship Foundation;

(3) the term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

(4) the term "secondary school" has the same meaning given that term by section 1201(d) of the Higher Education Act of 1965.

APPROPRIATIONS

SEC. 816. There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this title, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

[*Total, James Madison Memorial Trust Fund, $20,000,000.*]

$10,000,000 *(advance appropriation, fiscal year 1988)*

10,000,000 *(advance appropriation, fiscal year 1989)*

CONSTITUTIONAL LAW RESOURCE CENTERS

SEC. 817. (a) It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein and such other amounts as may be contributed from other sources.

(c) The income from each endowment shall be used to help support a chair for a Professor of Constitutional law. Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) That portion of each endowment provided by this Act and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the General Accounting Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) The application for the grant for an endowment shall require only such information and supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

SEC. 818. There is hereby appropriated to each recipient University named above or to the trustee of the fund designated by the President of the University the sum of $800,000 to carry out the provisions of section 817, to be available on November 1, 1987, and to remain available until expended.

$3,200,000 *(advance appropriation, fiscal year 1988*

[Total, title VIII, James Madison Memorial Fellowship:

[New budget (obligational) authority	*$23,200,000.]*
[Advance appropriations, fiscal year 1988	*13,200,000.]*
[Advance appropriation, fiscal year 1989	*10,000,000.]*

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1987".

[Total, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations, 1987:

[New budget (obligational) authority (net)	*$12,372,985,000.]*
[Appropriations, fiscal year 1987	*12,359,461,000.]*
[Definite	*12,339,461,000.]*
[Indefinite	*20,000,000.]*
[Rescissions	*−9,676,000.]*
[Advance appropriation, fiscal year 1988	*13,200,000.]*
[Advance appropriation, fiscal year 1989	*10,000,000.]*
[By transfer	*155,773,000.]*
[Limitation on guaranteed loans	*150,000,000.]*
[Limitation on obligations	*88,365,000.]*
[Appropriations to liquidate contract authority	*320,000,000.]*
[Foreign currency availability	*1,200,000.]*

(Department of Defense Appropriations Act, 1987)

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of Defense Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $22,353,990,000.

$22,353,990,000

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $17,104,850,000.

17,104,850,000

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $5,266,053,000.

5,266,053,000

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund; $18,940,731,000.

18,940,731,000

Reserve Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,323,210,000. $2,323,210,000

Reserve Personnel, Navy

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,464,453,000. 1,464,453,000

Reserve Personnel, Marine Corps

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $303,968,000. 303,968,000

Reserve Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $629,200,000. 629,200,000

National Guard Personnel, Army

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,323,145,000.

$3,323,145,000

National Guard Personnel, Air Force

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,027,778,000.

1,027,778,000

[*Total, title I, Military Personnel, new budget (obligational) authority (all definite appropriations), $72,737,378,000.*]

TITLE II

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $15,664,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $20,022,399,000, of which not less than $1,705,000,000 shall be available only for the maintenance of real property facilities.

20,022,399,000

Operation and Maintenance, Navy

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $3,919,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $22,939,674,000, of which not less than $795,000,000 shall be available only for the maintenance of real property facilities, and of which $75,000,000 shall be available only to reimburse United States Coast Guard Operating Expenses for operations and training relating to the Coast Guard defense, military readiness and drug enforcement missions: *Provided,* That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $3,415,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the fiscal year 1985 Department of

22,939,674,000

Defense Authorization Act, or Office of Management and Budget Circular A-76: *Provided further,* That funds herein provided shall be available for payments in support of the LEASAT program in accordance with the terms of the Aide Memoire, dated January 5, 1981: *Provided further,* That of the funds appropriated herein, not to exceed $5,080,000 shall be available for a grant to the Battleship Texas Advisory Board of the State of Texas for the restoration of the Battleship Texas.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,793,750,000, of which not less than $280,000,000 shall be available only for the maintenance of real property facilities. $1,793,750,000

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, including the lease and associated maintenance of replacement aircraft for the CT-39 aircraft to the same extent and manner as authorized for service contracts by section 2306(g), title 10, United States Code; and not to exceed $6,171,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $18,636,816,000, of which not less than $1,650,000,000 shall be available only for the maintenance of real property facilities. 18,636,816,000

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,978,674,000: *Provided,* That not to exceed $10,904,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further,* That $372,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment: *Provided further,* That not less than $116,465,000 shall be available only for the maintenance of real property facilities: *Provided further,* That $1,500,000 shall be transferred to the Department of Commerce, International Trade Administration, "Operations and administration", for export administration activities. 7,978,674,000

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $769,966,000, of which not less than $38,336,000 shall be available only for the maintenance of real property facilities. 769,966,000

Operation and Maintenance, Navy Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $884,097,000, of which not less than $37,248,000 shall be available only for the maintenance of real property facilities. $884,097,000

Operation and Maintenance, Marine Corps Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $63,875,000, of which not less than $3,146,000 shall be available only for the maintenance of real property facilities. 63,875,000

Operation and Maintenance, Air Force Reserve

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $911,200,000, of which not less than $22,969,000 shall be available only for the maintenance of real property facilities. 911,200,000

Operation and Maintenance, Army National Guard

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,734,447,000, of which not less than $56,300,000 shall be available only for the maintenance of real property facilities. 1,734,447,000

Operation and Maintenance, Air National Guard

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,755,658,000, of which not less than $41,000,000 shall be available only for the maintenance of real property facilities. $1,755,658,000

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; and the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; not to exceed $4,316,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board: *Provided*, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313. 4,316,000

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $144,400,000: *Provided*, That section 4 of chapter III of Public Law 99–349 is amended by adding before the period at the end thereof the following: "without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government": *Provided further*, That the Secretary of the Navy is authorized and directed to pay from previously authorized and appropriated funds not to exceed $10,000,000 to reimburse upon verification, the business entity responsible for performance of construction of the Norfolk Navy Steam Plant for losses incurred by said entity arising out of construction according to drawings reviewed and approved by the Navy and issued or released for construction in said performance. 144,400,000

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,200,000, and not to exceed $1,500 can be used for official representation purposes. 3,200,000

TENTH INTERNATIONAL PAN AMERICAN GAMES

For logistical support and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Tenth International Pan American Games) provided by any component of the Department of Defense to the Tenth International Pan American Games; $15,000,000.

$15,000,000

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $375,900,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

375,900,000

HUMANITARIAN ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For transportation for humanitarian relief for refugees of Afghanistan, acquisition of transportation assets to assist in the distribution of such relief, and distribution of excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $10,000,000: *Provided*, That not more than $2,500,000 may be transferred to the Secretary of State to provide for necessary expenses related to the transportation of humanitarian relief: *Provided further*, That of the funds provided under "Operation and Maintenance, Air Force" in Public Law 99-190, $7,000,000 shall remain available for obligation until September 30, 1987, for nonlethal aid to Afghanistan.

10,000,000

7,000,000 *(reappropriation)*

[*Total, title II, Operation and Maintenance:*
[*New budget (obligational) authority* .... *$78,050,372,000.*]
[*Appropriations* .... *78,043,372,000.*]
[*Reappropriation* .... *7,000,000.*]

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,762,750,000, to remain available for obligation until September 30, 1989.

2,762,750,000

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,206,800,000, to remain available for obligation until September 30, 1989. $2,206,800,000

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,804,300,000, to remain available for obligation until September 30, 1989: *Provided,* That none of these funds may be used for the noncompetitive procurement of the M249 Squad Automatic Weapon. 3,804,300,000

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,087,150,000, to remain available for obligation until September 30, 1989. 2,087,150,000

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed two hundred and ninety passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $5,118,752,000, to remain available for obligation until September 30, 1989. $5,118,752,000

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,794,262,000, to remain available for obligation until September 30, 1989: *Provided,* That four P-3C aircraft shall be for the Navy Reserve. 9,794,262,000

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Poseidon, $3,974,000;
TRIDENT I, $4,739,000;
TRIDENT II, $1,362,439,000;
UGM-73A Poseidon Modifications, $95,000;
Support equipment and facilities, $3,790,000;
Tomahawk, $723,800,000;
AIM/RIM-7 F/M Sparrow, $269,394,000;
AIM-9L/M Sidewinder, $35,800,000;
AIM-54A/C Phoenix, $267,272,000;
AIM-54A/C Phoenix advance procurement, $20,000,000;
AGM-84A Harpoon, $123,000,000;
AGM-88A HARM, $256,682,000;
SM-2 MR, $478,611,000;
SM-2 ER, $217,017,000;
RAM, $40,000,000;
Stinger, $39,740,000;
Sidearm, $22,858,000;
Laser Maverick, $165,69[illegible],000;
IIR Maverick, $35,200,00[illegible];
Aerial targets, $96,000,000;
Drones and decoys, $36,136,000;
Other missile support, $22,017,000;
Modification of missiles, $13,692,000;
Support equipment and facilities, $74,803,000;
Ordnance support equipment, $79,192,000;
MK-48 ADCAP torpedo program, $254,770,000;
MK-46 torpedo program, $97,861,000;
MK-50 torpedo program, $68,137,000;
Antisubmarine rocket (ASROC) program, $13,597,000;
Vertical launched ASROC, $74,289,000;
Modification of torpedoes, $97,705,000;
Torpedo support equipment program, $52,610,000;
MK-15 close-in weapons system program, $105,606,000;

MK-75 gun mount program, $14,875,000;
MK-19 machine gun program, $632,000;
25mm gun mount, $3,919,000;
Small arms and weapons, $10,082,000;
Modification of guns and gun mounts, $57,215,000;
Guns and gun mounts support equipment program, $873,000;
Spares and repair parts, $150,734,000;

In all: $5,290,847,000, to remain available for obligation until September 30, 1989: *Provided*, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $104,000,000. $5,290,847,000

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,446,400,000;
SSN-688 attack submarine program, $2,250,800,000;
SSN-21 attack submarine program, $375,000,000;
Aircraft carrier service life extension program, $83,500,000;
CG-47 cruiser program, $2,725,500,000;
DDG-51 destroyer program, $1,750,100,000;
LHD-1 amphibious assault ship program, $35,000,000;
T-AO fleet oiler program, $259,000,000;
AO conversion program, $40,000,000;
T-AGOS ocean surveillance ship program, $228,000,000;
AOE fast combat support ship program, $499,000,000;
Oceanographic research ship program, $33,000,000;
Strategic sealift program, $77,800,000;
T-ACS auxiliary crane ship program, $61,100,000;
For craft, outfitting, and post delivery, $470,789,000;

In all: $10,210,989,000, to remain available for obligation until September 30, 1991: *Provided*, That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $124,000,000: *Provided further*, That additional obligations may be incurred after September 30, 1991, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction; and each Shipbuilding and Conversion, Navy, appropriation that is currently available for such obligations may also hereafter be so obligated after the date of its expiration: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards. 10,210,989,000

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships

authorized for conversion); the purchase of not to exceed five hundred and ninety-nine passenger motor vehicles of which five hundred and seventy-four shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ship support equipment, $1,037,619,000;
Communications and electronics equipment, $2,006,277,000;
Aviation support equipment, $788,366,000;
Ordnance support equipment, $1,245,355,000;
Civil engineering support equipment, $209,041,000;
Supply support equipment, $71,823,000;
Personnel and command support equipment, $502,498,000;
Spares and repair parts, $293,692,000;

In all: $6,033,371,000, to remain available for obligation until September 30, 1989: *Provided,* That within the total amount appropriated, the subdivisions within this appropriation shall be reduced by $121,300,000. $6,033,371,000

COASTAL DEFENSE AUGMENTATION

For the augmentation of United States Coast Guard inventories to meet national security requirements; $200,000,000, to remain available until expended: *Provided,* That these funds shall be for the procurement by the Department of Defense of vessels, aircraft, and equipment and for modernization of existing Coast Guard assets, which assets are to be made available to the Coast Guard for operation and maintenance. 200,000,000

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed sixty-four passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands, and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,465,215,000, to remain available for obligation until September 30, 1989. 1,465,215,000

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $17,131,281,000, to remain available for obligation until September 30, 1989: *Provided,* That none of the funds in this Act may be obligated on B-1B 17,131,281,000 bomber production contracts if such contracts would cause the production portion of the Air Force's $20,500,000,000 estimate for the B-1B bomber baseline costs expressed in fiscal year 1981 constant dollars to be exceeded: *Provided further,* That notwithstanding the provisions of section 9032 of this Act (A) the Secretary of the Air Force may award a multiyear contract that employs economic order quantity procurement for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive source selection demonstrate that (1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and (2) those savings have a positive present value; (B) the cancellation ceiling associated with the first year of a multiyear contract under subsection (A) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code: *Provided further,* That $151,000,000 is available only for production of T-46A aircraft and related costs: *Provided further,* That $170,100,000 provided in fiscal year 1986 under this heading is available only for the production of T-46A aircraft and related costs: *Provided further,* That none of the funds provided in this or any prior Act may be used for the T-46A airframe production contract which existed on October 1, 1986 for other than lot one production: *Provided further,* That (1) the maximum program production cost for the T-46A aircraft program is $3,100,000,000 (in fiscal year 1986 dollars), based upon procurement of 650 aircraft. The maximum production unit cost for such program is $4,800,000 (in fiscal year 1986 dollars). The program production cost and production unit cost for such program determined for the purposes of this proviso shall be determined without regard to amounts for initial spares. (2) If during any fiscal year, after fiscal year 1987, the maximum program production cost or production unit cost for procurement of 650 aircraft is exceeded, the Secretary of the Air Force may not procure any T-46A aircraft during a later fiscal year no earlier than fiscal year 1989 until the Secretary has conducted a competition for procurement of that aircraft.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,446,718,000, to remain available for obligation until September 30, 1989: *Provided,* That no funds may be obligated or expended for Lot 1 low-rate production of the Advanced Medium Range Air-to-Air Missile, with the exception of long-lead procurement, until this missile has demonstrated, in flight test, the capability to successfully engage a minimum of two targets with two missiles on the same intercept in an electronic countermeasure environment after the missiles have been launched: *Provided further,* That funds made available for a portion of the MX missile program by the appropriation "Missile Procurement, Air Force, 1985/1987" and prior year funds referred to in that appropriation, shall remain available for the period originally appropriated for the purchase of the first 33 MX missiles of the MX missile program.

$7,446,718,000

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed seven hundred and forty-seven passenger motor vehicles of which six hundred and fifty-nine shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $9,254,941,000, to remain available for obligation until September 30, 1989. $9,254,941,000

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, as follows:

Army Reserve, $90,000,000;
Army National Guard, $146,000,000;
Air National Guard, $50,000,000;
Navy Reserve, $61,000,000;
Marine Corps Reserve, $60,000,000;
Air Force Reserve, $150,000,000;

In all: $557,000,000, to remain available for obligation until September 30, 1989. 557,000,000

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed seven hundred and seventy-nine passenger motor vehicles of which two hundred and fifty-nine shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,498,256,000, to remain available for obligation until September 30, 1989. 1,498,256,000

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $13,000,000, to remain available for obligation until September 30, 1989. 13,000,000

[*Total, title III, Procurement, new budget (obligational) authority (all definite appropriations), $84,875,632,000.*]

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,556,076,000, to remain available for obligation until September 30, 1988. $4,556,076,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,326,418,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $173,525,000 is available only for full-scale development of the MK-50 Advanced Lightweight Torpedo Program, $39,704,000 is available only for the Low Cost Anti-Radiation Seeker Program, and $3,000,000 is available only for the Aircrew Impact Injury Prevention Project: *Provided*, That the funds available for the V-22 Osprey Program shall not be subject to obligational limitations set forth in a National Defense Authorization Act for fiscal year 1987: *Provided further*, That funds made available for the Surface ASW Systems Improvement Program shall not be obligated or expended until a Joint Resources Management Board Milestone II decision and a Secretary of Defense Decision Memorandum have approved the initiation of full-scale engineering development: *Provided further*, That $1,800,000 shall be made available for research and development and related equipment for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics. 9,326,418,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $15,062,783,000, to remain available for obligation until September 30, 1988; of the total amount available for obligation $17,375,000 is available only for the Low Cost Seeker Program. 15,062,783,000

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,742,091,000, to remain available for obligation until September 30, 1988: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be 6,742,091,000 available for the same purposes and time period: *Provided further,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred: *Provided further,* That $200,000,000 is available to the Secretary of Defense only for the Conventional Defense Initiatives (CDI) program, which shall include conventional defense initiatives and conventional applications of the technologies developed under the Strategic Defense Initiative (SDI): *Provided further,* That such funds shall be under the control and management of the Secretary of Defense, who, with the concurrence of the Joint Chiefs of Staff, shall develop a plan for the utilization of emerging technologies for conventional applications including such technologies applicable from the Strategic Defense Initative: *Provided further,* That not more than $100,000,000 of these funds shall be obligated or expended until the Secretary of Defense identifies the specific technology development efforts to be drawn from SDI, and the conventional defense applications for which they will be utilized. None of the restricted funds shall be obligated or expended until 15 days after the Secretary of Defense provides such notification to Congress, but not earlier than July 1, 1987: *Provided further,* That no portion of the $200,000,000 made available to the Secretary of Defense be applied to any program, project, or activity in support of the Strategic Defense Initiative: *Provided further,* That $55,000,000 of funds made available for the National Aerospace Plane (NASP) Program may not be obligated or expended until the Secretary of Defense certifies that the Department of Defense and the National Aeronautics and Space Administration (NASA) have negotiated revised funding arrangements for NASP development which significantly increase NASA investment as a percentage of total NASP research, development, test and evaluation costs and which incorporate mandatory industry investment out of private capital.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance of joint developmental testing and evaluation; and administrative expenses in connection therewith; $105,546,000, to remain available for obligation until September 30, 1988. $105,546,000

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $11,300,000, to remain available for obligation until September 30, 1988. 11,300,000

[*Total, title IV, Research, Development, Test, and Evaluation, new budget (obligational) authority (all definite appropriations), $35,804,214,000.*]

TITLE V

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $3,500,000, to remain available for obligation until September 30, 1988: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foreign currencies. $3,500,000

TITLE VI

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $110,100,000. 110,100,000

NAVY STOCK FUND

For the Navy stock fund; $352,570,000. 352,570,000

MARINE CORPS STOCK FUND

For the Marine Corps stock fund; $822,000. 822,000

AIR FORCE STOCK FUND

For the Air Force stock fund; $139,980,000. 139,980,000

DEFENSE STOCK FUND

For the Defense stock fund; $47,200,000. 47,200,000

[*Total, title VI, Revolving and Management Funds, new budget (obligational) authority (all definite appropriations), $650,672,000.*]

TITLE VII

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $118,700,000, of which $59,900,000 shall remain available for obligation until September 30, 1987, $9,600,000 shall remain available for obligation until September 30, 1988, and $49,200,000 shall remain available for obligation until September 30, 1989. 118,700,000

TITLE VIII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $125,800,000. 125,800,000

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff, $21,738,000. $21,738,000

THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

For payment to the Barry Goldwater Scholarship and Excellence in Education Fund in the Department of the Treasury, pursuant to section 5104 of the National Defense Authorization Act for Fiscal Year 1987 (S. 2638) as passed the Senate on August 9, 1986, as if said section had been enacted into law; $40,000,000, to remain available until expended. 40,000,000

THE HENRY M. JACKSON FOUNDATION

For payment to the Henry M. Jackson Foundation, a direct and unrestricted grant, including any interest or earnings therefrom, to support the purposes of the Foundation, its on-going educational and public services programs and to serve as a memorial to the late Senator Henry M. Jackson; $10,000,000: *Provided*, That, notwithstanding any other provision of law or of this Act, the Secretary of Defense is hereby authorized and directed to make the grant authorized by this section to the Henry M. Jackson Foundation, and such grant shall be transferred to the Foundation by January 1, 1987. 10,000,000

[*Total, title VIII, Related Agencies, new budget (obligational) authority (all definite appropriations), $197,538,000.*]

TITLE IX

GENERAL PROVISIONS

SEC. 9001. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 9002. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 9003. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

SEC. 9004. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 9005. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

Sec. 9006. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 9007. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Sec. 9008. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

Sec. 9009. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army, or to the appropriations provided in this Act for Claims, Defense.

Sec. 9010. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Sec. 9011. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000 shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further,* That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 9012. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 9013. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $13,900,000 for the current fiscal year: *Provided,* That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense: *Provided further,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 9014. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided,* That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

(TRANSFER OF FUNDS)

SEC. 9015. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

$1,100,000,000 (transfer authority)

(TRANSFER OF FUNDS)

SEC. 9016. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9017. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

SEC. 9018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code.

SEC. 9020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $43,900,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 9021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided*, That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 9022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 9023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1988.

SEC. 9024. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 9025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9026. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

SEC. 9027. During the current fiscal year the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code.

SEC. 9028. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 9029. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 9030. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347

SEC. 9031. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

SEC. 9032. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

UH-60/EH-60 airframe;
Patriot missile system;
Stinger missile system; and
Defense support program.

SEC. 9033. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 9034. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 9035. In the administration of the provisions of chapter 13 of title 38, United States Code, Michael J. Smith, pilot of the space shuttle, Challenger, shall be deemed to have held the grade of captain, United States Navy, at the time of his death on January 28, 1986, while so serving as pilot of such space shuttle.

SEC. 9036. (a) None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(b) TECHNICAL DATA PACKAGES FOR PRODUCTION OF LARGE-CALIBER CANNON.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

"(a) GENERAL RULE.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) EXCEPTION.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) COPRODUCTION AGREEMENTS.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

"(2) the President—

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

"(2) The Secretary shall submit to Congress a semiannual report on the operation of this section and of agreements entered into under this section.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

(c) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (b), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

(TRANSFER OF FUNDS)

SEC. 9037. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 9038. None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 9039. None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are Signatories to the Warsaw Pact.

SEC. 9040. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 9041. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 67,557: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 45,098 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 9042. (a) The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1988 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1988 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1988.

SEC. 9043. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department to exceed, outside the fifty States of the United States and the District of Columbia, the aggregate civilian workyear totals in fiscal year 1986 for both direct hire and indirect hire employees including foreign national employees: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV.

(TRANSFER OF FUNDS)

SEC. 9044. Appropriations or funds available to the Department of Defense during the current fiscal year may be transferred to appropriations provided in this Act for research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred.

SEC. 9045. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 106 of the Intelligence Authorization Act for fiscal year 1987.

(RESCISSION)

SEC. 9046. The following funds are hereby rescinded from the following accounts in the specified amounts: −$5,325,877,000 *(rescissions)*

Aircraft procurement, Army, 1985/1987	$15,600,000
Aircraft procurement, Army, 1986/1988	$78,800,000
Missile procurement, Army, 1985/1987	$32,800,000
Missile procurement, Army, 1986/1988	$66,800,000
Procurement of weapons and tracked combat vehicles, Army, 1985/1987	$25,100,000
Procurement of weapons and tracked combat vehicles, Army, 1986/1988	$188,200,000
Procurement of ammunition, Army, 1985/1987	$33,000,000

Procurement of ammunition, Army, 1986/1988	$39,562,000
Other procurement, Army, 1985/1987	$45,400,000
Other procurement, Army, 1986/1988	$133,300,000
Aircraft procurement, Navy, 1985/1987	$170,700,000
Aircraft procurement, Navy, 1986/1988	$408,200,000
Weapons procurement, Navy, 1985/1987	$59,500,000
Weapons procurement, Navy, 1986/1988	$185,100,000
Shipbuilding and conversion, Navy, 1983/1987	$338,500,000
Shipbuilding and conversion, Navy, 1984/1988	$53,000,000
Shipbuilding and conversion, Navy, 1985/1989	$141,100,000
Shipbuilding and conversion, Navy, 1986/1990	$737,900,000
Other procurement, Navy, 1985/1987	$18,434,000
Other procurement, Navy, 1986/1988	$214,769,000
Procurement, Marine Corps, 1985/1987	$7,100,000
Procurement, Marine Corps, 1986/1988	$19,400,000
Aircraft procurement, Air Force, 1985/1987	$513,300,000
Aircraft procurement, Air Force, 1986/1988	$619,500,000
Missile procurement, Air Force, 1985/1987	$41,600,000
Missile procurement, Air Force, 1986/1988	$629,700,000
Other procurement, Air Force, 1985/1987	$68,611,000
Other procurement, Air Force, 1986/1988	$122,900,000
Research, development, test and evaluation, Army, 1986/1987	$45,523,000
Research, development, test and evaluation, Navy, 1986/1987	$54,878,000
Research, development, test and evaluation, Air Force, 1986/1987	$167,000,000
Research, development, test and evaluation, Defense Agencies, 1986/1987	$48,400,000
Director of developmental test and evaluation, Defense, 1986/1987	$200,000

(TRANSFER OF FUNDS)

SEC. 9047. In addition to any other transfer authority contained in this Act, amounts from working capital funds may be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided*, That such transfers shall not exceed $755,300,000 for Operation and Maintenance, Army; $2,341,400,000 for Operation and Maintenance, Navy; $29,200,000 for Operation and Maintenance, Marine Corps; $1,864,100,000 for Operation and Maintenance, Air Force; $40,600,000 for Operation and Maintenance, Defense Agencies; $14,526,000 for Operation and Maintenance, Army Reserve; $66,500,000 for Operation and Maintenance, Navy Reserve; $800,000 for Operation and Maintenance, Marine Corps Reserve; $63,000,000 for Operation and Maintenance, Air Force Reserve; $31,874,000 for Operation and Maintenance, Army National Guard; and $176,700,000 for Operation and Maintenance, Air National Guard.

SEC. 9048. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided*, That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further*, That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 9049. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9050. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the

Committees on Appropriations of the House of Representatives and the Senate in the budgetary process. Further, any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 9051. None of the funds made available by this Act shall be available to operate in excess of 247 commissaries in the contiguous United States.

SEC. 9052. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 9053. No more than $174,598,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

SEC. 9054. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9055. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 9056. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 9057. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 9058. Of the funds made available to the Department of the Air Force in this Act, not less than $5,000,000 shall be available for the Civil Air Patrol.

SEC. 9059. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

(TRANSFER OF FUNDS)

SEC. 9060. Not to exceed $100,000,000 may be transferred from the appropriation "Operation and Maintenance, Defense Agencies" to operation and maintenance appropriations under the military departments in connection with demonstration projects authorized by section 1092 of title 10, United States Code: *Provided*, That the Secretary of Defense shall promptly notify the Congress of any such transfer of funds under this provision: *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act.

SEC. 9061. None of the funds appropriated by this Act shall be available to compensate foreign selling costs as described in Federal Acquisition Regulation 31.205-38(b) as in effect on April 1, 1984.

SEC. 9062. Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations, and these obligations shall be reported to Congress on September 30, 1987: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

SEC. 9063. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 9064. None of the funds appropriated by this Act may be obligated or expended for the purposes delineated in section 1002(e)(2) of the Department of Defense Authorization Act, 1985, without the prior notification to the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 9065. It is the sense of the Congress that the Secretary of Defense should formulate and carry out a program under which contracts awarded by the Department of Defense in fiscal year 1987 would, to the maximum extent practicable and consistent with existing law, be awarded to contractors who agree to carry out such contracts in labor surplus areas (as defined and identified by the Department of Labor).

SEC. 9066. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 9067. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 9068. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided*, That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 9069. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1987 for construction or services to be performed in whole or in part in a

State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9070. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

SEC. 9071. Notwithstanding any other provision of this Act, no funds appropriated by this Act shall be expended for the research, development, test, evaluation or procurement for integration of a nuclear warhead into the Joint Tactical Missile System (JTACMS).

SEC. 9072. So far as may be practicable, Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of Defense: *Provided,* That the products must meet pre-set contract specifications.

SEC. 9073. Section 615 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: *Provided,* That the test authority provided for in section 618 of Public Law 99–145 and section 8083 of Public Law 99–190 shall remain in effect until such time as the system provided for in this section is implemented for both Department of Defense military and civilian employees.

SEC. 9074. Notwithstanding any other provision of law, during fiscal year 1987, the Department of Defense is to conduct a pilot test project of providing home health care to dependents entitled to health care under section 1076 of title 10, United States Code: *Provided,* That such care is medically necessary or appropriate, more cost effective than to continue paying for otherwise authorized CHAMPUS benefits in medical facilities, and the beneficiary is not covered for such care under any other public or private health insurance plan.

SEC. 9075. Not more than $2,506,389,000 of the funds appropriated by this Act may be expended for permanent change of station travel (including all expenses of such travel for organizational movements): *Provided,* That assignments for temporary duty may not be increased in order to circumvent this limitation: *Provided further,* That this limitation may be exceeded only upon a determination and notification to the Congress by the Secretary of Defense that such action is necessary to meet national security requirements.

SEC. 9076. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9077. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9078. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 9079. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided*, That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further*, That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act.

SEC. 9080. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 9081. None of the funds appropriated in this Act may be obligated or expended for procurement of C-12 aircraft unless such aircraft are procured through competitive procedures (as defined in section 2302(2) of title 10, United States Code), which shall be restricted to turboprop aircraft.

SEC. 9082. None of the funds in this Act may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided*, That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 9083. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided*, That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 9084. Within the funds made available under title II of this Act, the military departments may use such funds as necessary, but not to exceed $4,700,000, to carry out the provisions of section 430 of title 37, United States Code.

SEC. 9085. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

Sec. 9086. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

Sec. 9087. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided*, That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

Sec. 9088. No funds appropriated under this Act for the Strategic Defense Initiative Program shall be earmarked by any agency of the United States Government or any contractor exclusively for contracts with non-United States contractors, subcontractors, or vendors, or exclusively for consortia containing non-United States contractors, subcontractors, or vendors, prior to source selection in order to meet a specific quota or allocation of funds to any allied nation. Furthermore, it is the sense of the Congress that, whenever possible, the Secretary of Defense and others should attempt to award Strategic Defense Initiative contracts to United States contractors, subcontractors, and vendors unless such awards would degrade the likely results obtained from such contracts: *Provided*, That allied nations should be encouraged to participate in the Strategic Defense Initiative research effort on a competitive basis and be awarded contracts on the basis of technical merit.

Sec. 9089. The Secretary of Defense may only procure ammunition containing a depleted uranium penetrator component if the procurement of such component is done competitively and procured from at least two sources in the existing production base for such component.

Sec. 9090. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which a military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in states which are not contiguous with another state: *Provided further*, That alcoholic beverages other than wine and malt beverages in contiguous states and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Sec. 9091. Notwithstanding any other provision of law, funds available in this Act shall be available to the Defense Logistics Agency to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

(TRANSFER OF FUNDS)

SEC. 9092. No later than September 30, 1987, unobligated balances and appropriations made available to the Department of Defense for fiscal year 1983 that expired for obligation on September 30, 1985, may be transferred into the appropriation "Foreign Currency Fluctuations, Defense" to be merged with and available for the same time period and the same purposes as the appropriation to which transferred: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amount in the appropriation "Foreign Currency Fluctuations, Defense" does not exceed $970,000,000 at the time such a transfer is made.

SEC. 9093. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications—electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided*, That the foregoing limitations shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further*, That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

(TRANSFER OF FUNDS)

SEC. 9094. In addition to the amounts appropriated or otherwise made available in this Act, $1,911,000,000 shall be available for military and civilian pay raises as authorized by law: *Provided*, That such amounts shall be transferred and merged with "Military Personnel" and "Operation and Maintenance" appropriations accounts as applicable and that such transfer authority shall be in addition to that provided elsewhere in this Act: *Provided further*, That such sums as may be necessary for authorized pay raise costs in excess of this appropriation shall be accommodated within the levels appropriated in this Act. $1,911,000,000

SEC. 9095. None of the funds appropriated by this Act shall be available to pay a variable housing allowance under section 403a of title 37, United States Code, with respect to an area at rates that are greater than the rates in effect for that area on August 1, 1986.

SEC. 9096. (a) None of the funds appropriated or made available by this Act shall be used to enter into a contract for the performance by contractor personnel of functions that on the date of enactment of this Act are performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is already under contract for performance by contractor personnel.

SEC. 9097. None of the funds appropriated by this Act shall be available to pay temporary lodging expenses pursuant to section 404a(a) of title 37, United States Code: *Provided*, That during fiscal year 1987, this provision shall not apply to those military personnel with dependents in grades E-4 and below.

SEC. 9098. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9099. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose by section 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222), the program proposed by the Department of Defense in a letter dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in the United States to coal burning facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided*, That such action shall be subject to the use of only the most cost effective fuel system in the construction of new plants or the conversion of existing plants: *Provided further*, That during fiscal year 1987, the amount of anthracite coal purchased by the Department shall be at least 300,000 short tons: *Provided further*, That the funds identified in section 8110 of Public Law 99-190 shall continue to be made available until expended to be used on a non-reimbursable basis for the administrative costs of this program.

SEC. 9100. Notwithstanding any other provision of law, the Department of Defense or the General Services Administration, whichever agency has jurisdiction, custody, and control shall convey at no cost real property described in "Department of the Army Final Report of Excess, NAN-85-3A, Hancock Field, New York," to Onondaga County, New York, for aviation and related industrial activities. This conveyance should be accomplished as soon as possible, but no later than ninety days after enactment of this Act.

SEC. 9101. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 9102. After September 30, 1987, no appropriated funds may be used to support revenue generating Morale, Welfare and Recreation activities located in large metropolitan areas, as defined by Department of Defense regulation, of the fifty United States.

SEC. 9103. (1) Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 1013. Payment date for pay and allowances

"(a) Amounts of basic pay, basic allowance for quarters, basic allowance for subsistence, and other payments of military compensation (other than travel and transportation allowances and separation allowances) shall be paid on the first day of the month beginning after the month during which the right to such compensation accrues.

"(b) Subsection (a) does not preclude one payment in midmonth for any element of compensation and does not affect any authority to make advance payments of pay and allowances.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1013. Payment date for pay and allowances.".

(3) Section 1466(a)(2) of title 10, United States Code, is amended by striking out "paid" and inserting in lieu thereof "accrued".

(4) Section 1013 of title 37, United States Code, as added by subsection (a), and the amendment made by subsection (b) shall take effect on September 1, 1987.

SEC. 9104. For the current fiscal year, the minimum requirement for the amount of payments received in a fiscal year by working capital funds for industrial-type activities to be used for the acquisition of capital equipment for such activities shall be equal to the minimum required percentage for fiscal year 1986.

SEC. 9105. None of the funds appropriated under this or any other Act for the Department of Defense shall be available to make progress payments at a percentage higher than 5 percentage points below the rate in use on the effective date of this Act (except for contracts under solicitation before the effective date of this Act and except for shipbuilding, military construction and architect-engineering contracts if the Secretary of Defense certifies to Congress that an exclusion is justified for these activities) for (a) contracts which provide for progress payments based either on the percentage of work accomplished or on the contractors' costs under fixed-price type contracts and (b) modifications to existing contracts for additional supplies or services not contemplated by the existing contracts, unless a higher percentage is approved by the head of the contracting activity or designee based on demonstrated financial need: *Provided,* That for solicitations issued after the effective date of this Act, which require price negotiation, contracts may only be awarded if such negotiation is based on new profit calculation procedures which provide for increased emphasis on facilities capital employed and contractor risk and which procedures do not provide an explicit fixed rate for working capital and which do not include profit based on specific individual elements of contract costs: *Provided further,* That no contractor may be reimbursed directly under a contract awarded 90 days after the effective date of this Act, where the purchase of additional quantities of like items is contemplated in subsequent years, for more than 50 percent of the full acquisition cost of production special tooling and production special test equipment as a direct cost unless (a) such special equipment is to be used solely for final production acceptance test or (b) additional reimbursement that is in the best interest of the Government is approved in advance by the Service Secretary for programs reported on Selected Acquisition Reports or approved by an Assistant Service Secretary for all other programs: *Provided further,* That the contract may provide that if such a contract is terminated for any reason that does not reflect a failure of the contractor to perform, the contractor shall be entitled to be paid by the United States for the cost of any special tooling and special test equipment which has not been fully amortized and the United States may elect to take title to such special tooling and special test equipment.

SEC. 9106. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Philadelphia Municipal Authority, a State authority, (hereinafter in this section referred to as the "PMA"), all right, title, and interest of the United States in and to approximately 29 acres of land located in the United States Naval Base, Philadelphia, Pennsylvania, together with any improvements thereon.

(b) The exact acreage and legal description of the lands to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the PMA.

(c) In consideration for any conveyance authorized under subsection (a), the PMA shall pay to the United States an amount equal to the fair market value of the property to be conveyed (as determined by the Secretary).

(d) The Secretary may require such additional terms and conditions with respect to the conveyance under this section as he considers appropriate to protect the interests of the United States.

(e) In addition to the authority provided in subsection (a) and pursuant to section 2394 of title 10, United States Code, the Secretary, upon his determination that there is an economic advantage to the Navy, is authorized to enter into a long-term contract with the PMA for the purchase of steam generated from a facility to be constructed upon the land authorized to be conveyed herein.

SEC. 9107. Authority for reimbursement provided pursuant to section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is hereby extended through September 30, 1987, at an amount not to exceed $1,657,000.

SEC. 9108. Notwithstanding any other provision of law, appropriations available in this Act may be used for the procurement, product improvement and modification of the Copperhead and five-inch guided projectiles, without regard to whether or not a second production source program or contract has been established for those programs, provided that the Secretary of Defense determines that such expenditures are in the interest of the Government of the United States.

SEC. 9109. (a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within one hundred and eighty days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 9110. (a) IN GENERAL.—During fiscal year 1987 and during each of the six succeeding fiscal years, the Administrator of General Services shall obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese and award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) STOCKPILE GOALS.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile in each of the fiscal years referred to in the preceding sentence.

(2) If, in any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as prescribed in paragraph (1), is not met, the quantity of such material to be added to such stockpile in the succeeding fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.
(2) High carbon ferromanganese, 472,000 short tons.

(d) In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98c).

SEC. 9111. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Fed. Reg. 16988-16991), or section 8.304-91 of the Air Force FAR Supplement issued on June 24, 1985.

SEC. 9112. (a) It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber Program and the Advanced Cruise Missile Program are a critical national security

asset for maintaining an adequate and credible deterrent posture;

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) None of the funds appropriated in this Act to carry out the Advanced Technology Bomber Program or the Advanced Cruise Missile Program may be used for any other purpose.

(c) None of the funds appropriated in this or any other Act may be used for research, development, demonstration, procurement or any other purpose related to B-1B bombers beyond the 100 such bombers previously authorized.

SEC. 9113. (a) Not later than October 14, 1986, the Chairman of the Joint Chiefs of Staff of the Armed Forces of the United States shall submit to Congress a report, in both classified and unclassified versions, containing a detailed assessment, including the individual views of each of the Chiefs, of the military impacts on the national security of the United States, of the possible military responses of the Soviet Union to an American decision to no longer comply with major provisions of existing strategic offensive arms limitation agreements, including the central numerical sublimits on strategic nuclear delivery vehicles contained in the SALT II accord. This assessment shall concentrate on possible Soviet military responses during the period between fiscal year 1987 and fiscal year 1996, inclusive, and shall address, among other considerations, the following:

(1) the impact on the ability of United States strategic forces to accomplish their nuclear deterrent mission, including the impacts on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets, of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(2) the additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements;

(3) under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions;

(4) the military impacts on United States national security of the diversion of the funds identified in subsection (a)(2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military impacts of such a diversion on the ability of United States conventional forces to meet the Nation's specific non-nuclear defense commitments as a member of the North Atlantic Treaty Organization, and under the 1960 Treaty of Mutual Cooperation and Security with Japan;

(5) in addition, this report shall address the military implications for the United States of determined Soviet violations of offensive arms control agreements.

(b) Notwithstanding any other provision of law, none of the funds authorized or appropriated by this or any other Act may be obligated or expended, directly or indirectly, by the Organization of the Joint Chiefs of Staff for prospective studies and analyses to be accomplished by individual civilian contractors or civilian contractor entities, after October 14, 1986, if the report mandated in subsection (a) has not been received by the Congress; and

(c) The prohibition contained in subsection (b) on the obligation or expenditure of funds after October 14, 1986, shall cease to have effect upon the receipt by Congress of the report mandated in subsection (a).

Sec. 9114. Subsection (b) of section 223 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613) is amended—

(1) by designating the matter after the subsection caption as paragraph (1); and

(2) by adding at the end the following:

"(2) The report required by paragraph (1) shall include the following information:

"(A) The cost goals or cost objectives—

"(i) for the production and deployment of a Strategic Defense Initiative System; and

"(ii) for the individual components of such system,

determined on the basis of capabilities expected to be developed in the future.

"(B) The estimated costs of—

"(i) the production and deployment of the Strategic Defense Initiative System; and

"(ii) the production and deployment of the individual components of such system,

determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report.".

Sec. 9115. (a) Assistant Secretary of Defense.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

(b) Unified Combatant Command.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended by adding at the end the following new section:

"§ 167. Unified combatant command for special operations forces

"(a) Establishment.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

"(b) Assignment of Forces.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) Grade of Commander.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) Command of Activity or Mission.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) Authority of Combatant Commander.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) Budget.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) Intelligence and Special Activities.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) Regulations.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) Identification of Special Operations Forces.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) Special Operations Activities.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.
"(2) Strategic reconnaissance.
"(3) Unconventional warfare.
"(4) Foreign internal defense.
"(5) Civil affairs.
"(6) Psychological operations.
"(7) Counterterrorism.
"(8) Humanitarian assistance.
"(9) Theater search and rescue.
"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

(c) Major Force Program Category.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(d) Program and Budget Execution.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) Grade for Commanders of Certain Area Special Operations Commands.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) Board for Low Intensity Conflict.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity

Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) Deputy Assistant to the President for National Security Affairs for Low Intensity Conflict.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) Reports.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

(i) Effective Date.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(j) Funding for Fiscal Year 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

Sec. 9116. (a) The Secretary of Defense shall award to a United States firm a contract pursuant to a solicitation issued on or after the date of enactment of this Act under the Department of Defense overseas fuel procurement programs that would otherwise be awarded to a foreign firm if such United States firm—

(1) has a crude oil refining capacity of not more than 75,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For purposes of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

SEC. 9117. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application to such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 9118. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3408, 3410–3419, 3426, 3433, 3441–3443, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case by case basis by the Secretary of the Service Branch responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 9119. (a) Notwithstanding sections 2394(b) and 2690 of title 10, United States Code, the Secretary of the Army may use funds appropriated for the construction and operation of the Louisiana Army Ammunition Plant for the provision and operation of energy production facilities at such plant.

(b) Funds available to the Secretary of the Army under subsection (a) may be obligated without seeking third party contracts for the financing and construction of heating and power plants.

SEC. 9120. Of the funds appropriated by this Act, $8,100,000 shall be made available to the Department of Defense in order to implement the recommendations of its Security Review Commission concerning personnel and industrial security programs: *Provided*, That the Department shall submit a reprogramming notification identifying funds for this purpose.

SEC. 9121. No funds shall be expended for implementation of the Department of Defense Federal Acquisition Regulation Supplement; Cargo Preference, published as proposed regulations on July 28, 1986, at page 27016 of volume 51, numbered 144 of the Federal Register.

SEC. 9122. Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

SEC. 9123. (a)(1) Notwithstanding any other provision of law, except as provided in paragraph (1) or (2), the Secretary of the Navy shall reimburse Valerie S. Ford of Richmond, Virginia, for the expenses she incurred for her travel and the travel of her two dependent children and the transportation of her household goods in moving herself and her children from Makakilo, Hawaii, to Richmond, Virginia, in May, 1984.

(2) The Secretary of the Navy may not make the reimbursement authorized in paragraph (1) unless, within one year after the date of enactment of this Act, the Secretary receives from Valerie S. Ford such application for reimbursement and documentation of expenses as the Secretary considers appropriate.

(3) The amount paid to Valerie S. Ford pursuant to paragraph (1) may not exceed the amount that would have been payable for the travel and transportation referred to in such paragraph if the travel and transportation had been timely and a proper and timely application had been submitted in the case of the said Valerie S. Ford as provided by law or applicable regulations.

(b) No part of any amount reimbursed pursuant to subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such reimbursement, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

SEC. 9124. From existing funds the Secretary of Defense shall take additional steps for further development of planning, research, and facilities for physical acoustics and related matters and shall develop facilities for advanced microelectronics design research and development including but not restricted to military components replacement and the Mapped Array Differential Equation Machine.

SEC. 9125. Notwithstanding any other provision of law, appropriations available to the Department of Defense during the current fiscal year shall be available to make payments to a hospital that obtains 12 percent or more of its operating funds from contributions and that limits the care it provides to the treatment of heart and lung conditions: *Provided,* That payment may not be denied for a claim for otherwise reimbursable services submitted under a plan contracted for under sections 1079(a) and 1086(a) of title 10, United States Code, solely on the basis that such hospital does not impose a legal obligation, including a patient cost share or deductible, on its patients to pay for such services.

SEC. 9126. Notwithstanding the provisions of subsection 502(a)(1) of the National Security Act of 1947, funds appropriated by this Act may be obligated and expended for particular intelligence activities contained in this Act: *Provided,* That the funds appropriated or made available by this Act may be obligated and expended for the particular activities contained in this Act should the enactment of a National Defense Authorization Act for fiscal year 1987 fail to occur and this Act shall then be considered to provide the authorization and appropriation authority necessary to obligate and expend the funds provided herein.

SEC. 9127. Notwithstanding any other provision of law, where an error of the magnitude of four or greater in a financial ratio is made in the evaluation of an application for extension made by any firm in accordance with C.F.R. Section 124.1—(1)(f)(4)(i) (effective January 1, 1986), the maximum extension shall be granted.

SEC. 9128. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9129. Of the funds appropriated in this Act for the procurement of P-3C aircraft, the Secretary of the Navy may carry out Navy obligations under the classified Maritime Surveillance Agreement of 1986: *Provided*, That two of the P-3C aircraft to be procured may be used to implement United States obligations under such classified agreement.

SEC. 9130. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 9131. Section 642 of S. 2638, as passed by the Senate on August 9, 1986, shall be deemed to be enacted into law as fully as if set forth herein: *Provided*, That the total amount herein appropriated for "Military Personnel" appropriations accounts shall be reduced by $350,000,000.

−$350,000,000 *(reduction)*

SEC. 9132. During the current fiscal year, the Department of Defense shall conduct a new competition for 9mm handguns, with procurement starting in fiscal year 1988 in parallel with the current contract.

SEC. 9133. Funds appropriated to the Department of Defense during fiscal year 1987, or otherwise available for obligation during fiscal year 1987, shall be available for obligation notwithstanding any provisions contained in any Act authorizing appropriations for the Department of Defense for fiscal year 1987, heretofore or hereafter enacted, that would otherwise limit obligations of the aggregate amount that may be obligated at the appropriation account level, appropriations subdivision level, or appropriation budget activity level, unless a subsequently enacted provision expressly and specifically references this provision and directly amends or repeals this provision.

SEC. 9134. (a) Notwithstanding any other provision of this Joint Resolution, none of the funds appropriated in this or any other Act shall be used to sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) Notwithstanding any other provision of this Joint Resolution, to include section 509 of the Department of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Joint Resolution, or any other provision of the law, including section 809 of the Military Construction Authorization Act, 1968, section 807(d) of the Military Construction Authorization Act, 1984, or any other provision of an annual Appropriation Act restricting use of funds for the sale, lease, rental, or excessing of Fort DeRussy, Hawaii, any right or interest of the United States in the remaining forty-five acres of Fort DeRussy, Hawaii, lying northeast of Kalia Road, which comprises the three United States Army Reserve Centers and miscellaneous facilities, may not be sold, leased, or transferred in accordance with Federal laws and Department of Defense regulations governing the disposal of Defense installations prior to August 1, 1987: *Provided*, That no such sale, lease, transfer, or other disposition proposed by the Secretary of the Army after August 1, 1987 shall occur until 60 legislative days after notification of the proposed action to the Committees on Armed Services and Appropriations of the House of Representatives and Senate.

(c) The exact acreage and legal descriptions of the property addressed by this section shall be determined by surveys which are satisfactory to the Secretary of the Army.

SEC. 9135. None of the funds appropriated or otherwise made available by this or any other Act may be obligated or expended during fiscal year 1987 for, or in connection with, a Strategic Defense Initiative Institute unless—

(1) obligation or expenditure of funds for such purpose is specifically authorized by law in an Act other than this Act; and

(2) funds are specifically appropriated for such purpose in an Act other than this Act.

For purposes of this section, a Strategic Defense Initiative Institute is a Federally Funded Research and Development Center intended to lend technical support to the Strategic Defense Initiative Organization, as described in the Federal Register on March 18, 1986, April 24, 1986, and May 21, 1986.

SEC. 9136. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. The Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report describing the proposed conduct of the demonstration project not later than November 1, 1986. The Secretary shall implement the demonstration project not later than February 1, 1987. At the conclusion of the demonstration project, the Secretary shall submit to such committees a report on the results of the project: *Provided*, That the demonstration project shall be conducted at only one location: *Provided further*, That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) on the results of the demonstration project is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

[Total, title IX, General Provisions:

[New budget (obligational) authority (net) .	*−$3,762,877,000.]*
[Appropriations	*1,561,000,000.]*
[Rescissions	*−5,323,877,000.]*
[Transfer authority	*1,100,000,000.]*

TITLE X—DEFENSE ACQUISITION IMPROVEMENT

SEC. 900. SHORT TITLE

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the

performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition.".

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS.

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United States Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,".

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and

Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition;"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) the following new section:

"§ 2435. Enhanced program stability

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

"§ 2436. Defense enterprise programs

"(a) IN GENERAL.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) GUIDELINES.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) APPLICABLE RULES AND REGULATIONS.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS.

(a) IN GENERAL.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization

"(a) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) The Secretary of Defense may designate defense enterprise programs in each military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) SUBMISSION OF BASELINE DESCRIPTIONS.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section;

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) MILESTONE AUTHORIZATION.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) PROGRAM DEVIATIONS.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)—

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

(b) INITIAL DESIGNATION OF PARTICIPATING PROGRAMS.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS.

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2325. Preference for nondevelopmental items

"(a) PREFERENCE.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) IMPLEMENTATION.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition, who shall have responsibility for its effective implementation.

"(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) DEFINITION.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act.

(b) REMOVAL OF IMPEDIMENTS TO ACQUISITION OF NONDEVELOPMENTAL ITEMS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) Evaluation by Comptroller General.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) Definition.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS.

(a) Limitation on Use of Funds for Undefinitized Contractual Actions.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine—

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning—

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

(b) Oversight by Inspector General.—The Inspector General of the Department of Defense shall—

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

(c) Waiver Authority.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) Establishment of Requirements With Respect to Undefinitized Contractual Actions.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

"§ 2326. Undefinitized contractual actions: restrictions

"(a) In General.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) Limitations on Obligation and Expenditure of Funds.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)).

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) ESTABLISHMENT OF REQUIREMENT.—Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

"§ 2365. Competitive prototype strategy requirement: major defense acquisition programs

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS.

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§ 2366. Major systems and munitions programs: survivability and lethality testing; operational testing

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) TEST GUIDELINES.—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) Waiver Authority.—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

"(d) Waiver in Time of War or Mobilization.—In time of war or mobilization, the President may suspend the operation of any provision of this section.

"(e) Definitions.—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

(b) Effective Date.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made—

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433)) is amended by striking out "January 15" in the second sentence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31".

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988.

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433));

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

"§ 2367. Use of federally funded research and development centers

"(a) LIMITATION ON USE OF CENTERS.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) Exception for Applied Scientific Research.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

"(c) Limitation on Creation of New Centers.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of federally funded research and development centers.".

(b) GAO Study.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO Report.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

Part B—Requirements Relating to the Acquisition Process

SEC. 921. SMALL BUSINESS SET-ASIDES.

(a) Proportion of Contracts Set Aside Determined on Industry Category Basis.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an

industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

(b) Awarding of Contracts at Fair Market Prices.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) Assurance as to Composition of Labor Force.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a percentage established under section 15(n) for the same industry category.".

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

"(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a).

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code.

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) Effective Date.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987.

(h) Initial Review of Size Standards.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983, and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

(i) REPORT ON EFFECT OF AMENDMENTS MADE BY THIS SECTION.—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(A) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient or more effective manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

(j) LIMITATION RESPECTING GREAT LAKES NAS.—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and of refuse systems and related services at Great Lakes Naval Training Station, Illinois, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES.

(a) SMALL BUSINESS ACT NOTICE THRESHOLDS.—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "subsection (b); and" and inserting in lieu thereof "subsection (f);";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears in and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)".

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)".

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES.

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS.

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES.

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not included in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

(b) Effective Date.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY.

(a) Establishment of Commercial Pricing Requirement.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Commercial pricing for spare or repair parts

"(a) Limitation on Price of Commercially Available Parts.—Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1).

"(b) Requirements for Inclusion in Offer.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror—

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) Exception to Limitation.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) Auditing.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part Such term does not include the price at which a sale was made-

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person,

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE.

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES.

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract—

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if—

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS–13 of the General Schedule; or

"(B) as a member of the armed forces in a pay grade below pay grade O–4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O–7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph

(1), such official shall issue a written opinion on the applicability of this section to the acceptance of compensation covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who—

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.

"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

(b) Repeal.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

(c) Effective Dates.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL.

(a) Development of Plan.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) Requirements for Plan.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) Report.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) Effective Date.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL.

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS.

(a) Coordination Plan.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

(b) Requirements for Plan.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logis-

tics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) Effective Date.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

Part D—Requirements Relating to Defense Contractors

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS.

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

"(a) Prohibition.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) Criminal Penalty.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

(b) Conforming Amendment.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

(c) Effective Date.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) Prohibition of Reprisals.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

"(b) INVESTIGATION OF COMPLAINTS.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

"(c) CONSTRUCTION.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

(b) EFFECTIVE DATE.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS.

(a) IN GENERAL.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

"§ 2406. Availability of cost and pricing records

"(a) REQUIREMENT.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data described in subsection (b) with respect to work under the covered contract.

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) COVERED RECORDS.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

"(A) the contractor's proposal for the contract; and

"(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) COVERED COSTS.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) Nature of Records To Be Maintained.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) Regulations.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) Definitions.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

"(B) that is subject to the provisions of section 2306a of this title.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

(b) Applicability of Section.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

(c) Deadline for Regulations.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM.

(a) Consideration of National Interests With Respect to Defense Contracts.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

"§ 2327. Contracts: consideration of national security objectives

"(a) Disclosure of Ownership or Control by a Foreign Government.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

"(A) The relationship of the United States with the foreign government concerned.

"(B) The obligations of the United States under international agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) APPLICABILITY.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) CONFORMING AMENDMENT.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

(c) EFFECTIVE DATE.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS.

(a) STRENGTHENING OF PREVENTION OF UNEARNED AND EXCESSIVE CONTRACTOR PROFITS.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section:

"§ 2306a. Cost or pricing data: truth in negotiations

"(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS.—This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2).

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

(i) the certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;
"(C) pricing of the contract or subcontract; or
"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) Cost or Pricing Data Defined.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

(b) Conforming Amendments.—(1) Subsection (f) of section 2306 of such title is amended to read as follows:

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be submitted by certain contractors and subcontractors are provided in section 2306a of this title.".

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99–145; 99 Stat. 700) is repealed.

(c) Clerical Amendments.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§ 2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.
"2306a. Cost or pricing data: truth in negotiations.".

(d) Effective Dates.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA.

(a) Rights in Technical Data.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

"(i) use technical data pertaining to the item or process; or "(ii) release or disclose the technical data to persons outside the Government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the Government, or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

"(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction."

(c) Conforming Amendments.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(d) Deadline for Revision of Regulations.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

(e) Effective Date.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA.

(a) In General.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

"§ 2328. Release of technical data

"(a) In General.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person requesting such a release if the person pays all reasonable costs attributable to search and duplication.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

"(b) Disposition of Costs.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) Waiver.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data."

(b) Effective Date.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS.

(a) Matters To Be Included in Annual Defense Budgets.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) Assistant Secretary (Comptroller).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

(c) Definitions.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS.

(a) Definitions.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(3) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS.

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

"§ 2416. Subcontractor information

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987.

SEC. 961. SELECTED ACQUISITION REPORTS.

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the

number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichois Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS.

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE XI

ARMS CONTROL

SEC. 1101. (a) LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) EXPIRATION OF MORATORIUM.—The prohibition in subsection (a) expires on October 1, 1987.

Sec. 1102. (a) **Report by the Secretary of Defense on ICBM Modernization.**—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full-scale engineering development decision.

(b) Limitation on Deployment of Peacekeeper (MX) Missile; Development of Small ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 614), on the deployment of the MX missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) Limitations on Funding.—Of the amounts appropriated herein for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

Sec. 1103. Of the amount appropriated by this Act for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) program.

Sec. 1104. Of the amounts appropriated in the Energy and Water Development Appropriations Act for fiscal year 1987 for national security programs for the Department of Energy, $317,000,000 is available for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

Sec. 1105. (a) Sense of Congress Relating to Continued Adherence to SALT II Numerical Sublimits.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) Definition.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1106. (a) SENSE OF CONGRESS ON NUCLEAR TESTING.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1107. (a) LIMITATION ON FISCAL YEAR 1987 FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that—

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

(d) GAO Monitoring and Report.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) Report on Long-Range Standoff Chemical Munitions.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range standoff chemical weapons. The report shall address the military advantages and disadvantages of such weapons and the potential of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

Sec. 1108. Of the amount appropriated by this Act for research, development, test, and evaluation for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

This Act may be cited as the "Department of Defense Appropriations Act, 1987".;

[Total, Department of Defense Appropriations, 1987:

[New budget (obligational) authority (net)	*$268,675,129,000.]*
[Appropriations	*273,992,006,000.]*
[Rescissions	*−5,323,877,000.]*
[Reappropriation	*7,000,000.]*
[Transfer authority	*1,100,000,000.]*

(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

(District of Columbia Appropriations Act, 1987)

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I

FISCAL YEAR 1987 APPROPRIATIONS

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1987, $444,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

$444,500,000

Federal Payment for Water and Sewer Services

For payment to the District of Columbia for the fiscal year ending September 30, 1987, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $28,810,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

$28,810,000

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

52,070,000

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $35,000,000.

35,000,000

CRIMINAL JUSTICE INITIATIVE

For the design and construction of a prison within the District of Columbia, $20,000,000, to become available October 1, 1987 together with funds previously appropriated under this head for the fiscal years ending September 30, 1986 and September 30, 1987: *Provided*, That the District of Columbia shall award a design and construction contract on or before October 15, 1986: *Provided further*, That the District of Columbia is directed to proceed with the design and construction of a prison facility within the District of Columbia without respect to the availability of Federal funds: *Provided further*, That a plan that includes the construction of not less than a 700 bed, medium security facility on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia is hereby approved: *Provided further*, That this approval shall satisfy the provisions as set forth in the first proviso under the heading "Criminal Justice Initiative" in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985: *Provided further*, That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

20,000,000 *(advance appropriation, fiscal year 1988)*

[Total, Federal funds to the District of Columbia:
[New budget (obligational) authority .... $580,380,000.]
[Appropriations, fiscal year 1987 .... 560,380,000.]
[Advance appropriation, fiscal year 1988. 20,000,000.]

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $108,407,000: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Adminis-

(108,407,000)

trator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That not less than $320,000 shall be used by the Office of Personnel exclusively for the administration of programs for the training of District of Columbia government employees: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $3,772,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $754,000 shall be derived from the general fund and not to exceed $3,018,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the $100,000 appropriated for fiscal year 1987 for Admission to Statehood, $50,000 shall be for the Statehood Commission and $50,000 shall be for the Statehood Compact Commission: *Provided further,* That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $128,960,000, of which $2,000,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Housing and Community Development: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the holders of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia. *($128,960,000)*

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) and 14 replacement passenger-carrying vehicles for fire-type use without regard to the general purchase price limitation for the current fiscal year, $600,165,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That, notwithstanding any other provision of law, in the case of the 23 employees who retired from the Fire Department of the District of Columbia between November 24, 1984, and April 13, 1985 (both dates inclusive), and who on the date of the enactment of this Act are receiving annuities based on service in the Fire Department, the District of Columbia Retirement Board shall cause to be paid not later than October 15, 1986, to each such employee a lump-sum payment equal to three percent of his or her annuity: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1987, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1987 in relation to the Lorton prison complex. Such reimbursement shall be paid in all instances in which the District requests that the counties provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make a quarterly report to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of reimbursements made to the counties, and the amount of the authorization remaining for such reimbursements: *Provided further*, That within 30 days after the date of enactment of this Act, the District of Columbia shall establish a free, 24-hour telephone information service, whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further*, That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further*, That none of the funds provided by this Act may be used to

($600,165,000)

implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the District of Columbia shall not renovate or construct prison bed space at the Occoquan facilities of Lorton prison beyond the number of prison bed spaces which were damaged or destroyed there during the fire that occurred on July 25, 1986.

PUBLIC EDUCATION SYSTEM

($541,318,000)

Public education system, including the development of national defense education programs, $541,318,000, to be allocated as follows: $394,406,000 for the public schools of the District of Columbia, of which $8,000,000 shall be for non-recurring pay-as-you-go capital projects of the public schools of the District of Columbia; $58,800,000 for the District of Columbia Teachers' Retirement Fund; $68,861,000 for the University of the District of Columbia; $16,646,000 for the Public Library; $2,368,000 for the Commission on the Arts and Humanities; and $237,000 for the Educational Institution Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1987, a tuition rate schedule which will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: *Provided further,* That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: *Provided further,* That if the Council of the District of Columbia or the Board of Trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit.

HUMAN SUPPORT SERVICES

(654,315,000)

Human support services, $654,315,000, of which $298,000 shall be for non-recurring pay-as-you-go capital projects of the Department of Human Services: *Provided,* That the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of an Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; Public Law 80-353; 24 U.S.C. 168(a)): *Provided further,* That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security

Act, approved July 30, 1965 (79 Stat. 343; Public Law 89-97; 42 U.S.C. 1396 et seq.), shall not exceed $71,200,000: *Provided further*, That $13,800,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $204,748,000, of which not to exceed $4,150,000 shall be available for the School Transit Subsidy: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia. *($204,748,000)*

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,261,000: *Provided*, That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit. *(6,261,000)*

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $204,514,000. *(204,514,000)*

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $244,934,000 general fund accumulated deficit as of September 30, 1985, $20,000,000, of which not less than $11,325,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or reve- *(20,000,000)* *(−11,325,000)* nues otherwise available, or both): *Provided*, That if the Federal payment to the District of Columbia for fiscal year 1987 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

[*Total, repayment of general fund deficit (net), $8,675,000.*]

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000. *($3,750,000)*

[*Total, Operating Expenses, General Fund, $2,461,113,000.*]

CAPITAL OUTLAY

For construction projects, $361,860,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 to 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $17,425,000 shall be available for project management and $24,139,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That $10,298,000 of the $361,860,000, shall be financed from general fund operating revenues to be allocated as follows: $8,000,000 for pay-as-you-go capital projects for public schools of the District of Columbia; $2,000,000 for pay-as-you-go capital projects for the Department of Housing and Community Development; and $298,000 for pay-as-you-go capital projects for the Department of Human Services: *Provided further*, That $19,218,000 of the $361,860,000, shall be available to the Board of Education of the District of Columbia for pay-as-you-go capital projects (maintenance improvements), for the construction of new roofs for various school buildings, and for school safety and building improvements projects, with $15,999,000 of these funds available for construction, $1,881,000 available for architectural design, and $1,338,000 available for project management: *Provided further*, That notwithstanding the last sentence of section 405(b) of the District of Columbia *(361,860,000)*

Public Postsecondary Education Reorganization Act, approved October 26, 1974 (88 Stat. 1423; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for its pay-as-you-go capital projects, for the construction of new roofs for various school buildings, and for school safety and building improvements projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1988, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1988: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse: *Provided further,* That $50,000,000 of the $361,860,000 is for the construction of a prison facility in the District of Columbia which is financed with Federal funds appropriated to the District of Columbia; namely, $10,000,000 appropriated in fiscal year 1986; $20,000,000 appropriated for fiscal year 1987, and $20,000,000 appropriated for fiscal year 1988.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $176,876,000, of which $32,834,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects. *($176,876,000)*

For construction projects, $54,850,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title. *(54,850,000)*

[*Total, Water and Sewer Enterprise Fund, $231,726,000.*]

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91, as amended), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board. *(5,458,000)*

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000. *(250,000)*

[*Total, enterprise funds, $237,434,000.*]

[*Total, District of Columbia funds, $3,060,407,000.*]

General Provisions

Sec. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Sec. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

Sec. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

Sec. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

Sec. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

Sec. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

Sec. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1987, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 33,549, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1988, shall be transmitted to the Congress by no later than April 15, 1987.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1986 shall be deemed to be the rate of pay payable for that position for September 30, 1986.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

SEC. 128. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 129. (a) Section 131 of the District of Columbia Appropriation Act, 1986 (H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190), is amended—

(1) by inserting "or leased" after "owned" in subsection (a); and

(2) by inserting before the period at the end of subsection (b)(3) the following: ", and includes any tax imposed with respect to the use or rental of a motor vehicle and levied on, with respect to, or measured by the sales price or market value of the vehicle or the gross proceeds from the rental".

(b) The amendments made by subsection (a) shall apply to all taxable periods described in section 131(c) of such Act.

SEC. 130. No later than 30 days after the end of the first quarter of fiscal year 1987, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1987 revenue estimate as of the end of the first quarter of fiscal year 1987: *Provided*, That these estimates shall be used in the fiscal year 1988 annual budget request: *Provided further*, That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 131. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1986" and inserting in lieu thereof "sold before October 1, 1987".

(Sakharov Plaza)

SEC. 132. The District of Columbia shall construct three signs which contain the words, "Sakharov Plaza". These signs shall be placed immediately above existing signs on the corners of 16th and L and 16th and M Streets, Northwest. These should be similar to signs used by the city to designate the location of Metro stations. In addition, a sign shall be placed on city property directly adjacent to, or directly in front of, 1125 16th Street designating the actual location of Andrei Sakharov Plaza. Hereafter the proper address of the Soviet Embassy in Washington, District of Columbia, shall be No. 1 Andrei Sakharov Plaza.

SEC. 133. The Congress of the United States reaffirms the authority of the Council of the District of Columbia, as authorized by the Street and Alley Closing and Acquisition Procedures Act of 1982 (D.C. Code, sec. 7-421), to enact the Closing of a Portion of 8th Street, Northwest, and Public Alleys in Square 403 Act of 1984 (D.C. Law 5-148), and the Closing of a Portion of 8th Street, Northwest, and Public Alleys and Square 403 Emergency Act of 1984 (D.C. Act 5-206).

SEC. 134. (a) Section 906 of the Leadership in Educational Administration Development Act of 1984 (20 U.S.C. 4206) is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the term 'State' includes the 50 States and the District of Columbia.".

(b) The amendments made by subsection (a) shall be effective as though they had been included in section 906 of the Leadership in

Educational Administration Development Act of 1984 at the time of its enactment.

[*Total, title I, fiscal year 1987 appropriations:*

[*Federal funds*	*$580,380,000.*]
[*Appropriations, fiscal year 1987*	*560,380,000.*]
[*Advance appropriation, fiscal year 1988.*	*20,000,000.*]
[*District of Columbia funds*	*3,060,407,000.*]

TITLE II

FISCAL YEAR 1986 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental Direction and Support", $1,738,000. *($1,738,000)*

ECONOMIC DEVELOPMENT AND REGULATION

For an additional amount for "Economic Development and Regulation", $5,658,000. *(5,658,000)*

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public Safety and Justice", $47,093,000: *Provided*, That of the funds appropriated under this *(47,093,000)* heading for the Police and Fire Retirement System for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $12,735,000 are rescinded. *(−12,735,000) (rescission)*

PUBLIC EDUCATION SYSTEM

For an additional amount for "Public Education System", $92,000, *(92,000)* for the Commission on the Arts and Humanities: *Provided*, That of the amount available for the District of Columbia Teachers' Retirement Fund for the fiscal year ending September 30, 1986, $3,423,000 shall be used solely for the purpose of reducing the fund's unfunded liabilities.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human Support Services", $3,545,000: *Provided*, That of the funds appropriated under this *(3,545,000)* heading for the Unemployment Compensation Fund for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $1,982,000 are rescinded: *Provided further*, That of the *(−1,982,000) (rescission)* amount available from the revenue sharing trust fund for the fiscal year ending September 30, 1986, $2,463,000 are rescinded. *(−2,463,000) (rescission)*

PUBLIC WORKS

For an additional amount for "Public Works", $4,216,000. *(4,216,000)*

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $150,000. *(150,000)*

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $16,316,000 are rescinded. *(−$16,316,000) (rescission)*

PERSONAL SERVICES

(INCLUDING RESCISSION)

For "Personal services", $1,000,000, to be apportioned by the Mayor to the various appropriation titles for optical and dental costs for nonunion employees: *Provided,* That of the funds appropriated under the various headings for the fiscal year 1986 in H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, $3,423,000 in personal services costs are rescinded. *(1,000,000)* *(−3,423,000) (rescission)*

ADJUSTMENTS

(RESCISSION)

The Mayor shall reduce authorized appropriations and expenditures within Object Class 30A (energy) in the amount of $1,000,000 within the various appropriation titles of H.R. 3067 as enacted by reference in section 101(c) of Public Law 99-190, approved December 19, 1985 (99 Stat. 1224). *(−1,000,000) (rescission)*

[*Total, operating expenses, general fund (net), $28,036,000.*]

CAPITAL OUTLAY

For an additional amount for "Capital Outlay", $126,791,000: *Provided,* That $5,165,000 shall be for project management and $836,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System. *(126,791,000)*

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and Sewer Enterprise Fund", $300,000. *(300,000)*

GENERAL PROVISIONS

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1986.

[*Total, title II, fiscal year 1986 supplemental:*

[*District of Columbia funds (net)*	*$155,127,000.*]
[*Appropriations*	*190,583,000.*]
[*Rescissions*	*−35,456,000.*]

This Act may be cited as the "District of Columbia Appropriations Act, 1987".

Total, District of Columbia Appropriations, 1987:

[*Federal funds*	*$580,380,000.*]
[*Appropriations, fiscal year 1987*	*560,380,000.*]
[*Advance appropriation, fiscal year 1988.*	*20,000,000.*]
[*District of Columbia funds (net)*	*3,215,534,000.*]
[*Appropriations, fiscal year 1987*	*3,060,407,000.*]
[*Appropriations, fiscal year 1986 supplemental (net)*	*155,127,000.*]
[*Appropriations*	*190,583,000.*]
[*Rescissions*	*−35,456,000.*]

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Energy and Water Development Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

(Energy and Water Development Appropriations Act, 1987)

AN ACT

Making appropriations for energy and water development for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to
construction, $135,517,000, to remain available until expended, and $135,517,000
in addition, $250,000, to remain available until expended, for the 250,000
Bolsa Chica/Sunset Harbor, California, study; and in addition,
$520,000 to remain available until expended, for the Red River 520,000
Waterway, Shreveport, Louisiana, to Index, Arkansas, project for continuation of preconstruction planning: *Provided*, That not to exceed $18,000,000 shall be available for obligation for research and development activities.

[*Total, General Investigations $136,287,0000.*]

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction),
$1,065,950,000, of which $26,000,000 shall be derived from the Inland 1,065,950,000
Waterway Trust Fund, to remain available until expended, and in
addition, to remain available until expended, $2,300,000 for that 2,300,000
increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, of which $1,300,000 shall be made available for the Sea Bright to Ocean Township reach and of which $1,000,000 for the Asbury Park to Manasquan reach; and in addi-
tion, $6,800,000 to remain available until expended for the construc- 6,800,000
tion of the Yatesville, Kentucky, construction project; and in addi-
tion, $1,600,000, to remain available until expended for construction 1,600,000
of the Sturgeon Point Marina, New York, project authorized by section 107 of the Rivers and Harbors Act of 1960, as amended; and
in addition, $1,600,000 to remain available until expended, for 1,600,000
construction of recreation facilities at New Melones Lake, Califor-

nia; and in addition, $1,200,000 to remain available until expended $1,200,000
to be equally divided between the Crossett Harbor Public Access/
Recreation Site and the Grand Marais Lake Public Access/Recreation
Site at the Felsenthal National Wildlife Refuge, Arkansas
(Ouachita and Black Rivers, Arkansas and Louisiana); and in addition,
$1,100,000 to remain available until expended, for construction, 1,100,000
at a standard project level of protection, for the Barbourville, Kentucky,
project as authorized by section 202 of Public Law 96-367; and
in addition, $3,600,000, to remain available until expended, for 3,600,000
construction at a standard project flood level of protection, for the
Harlan, Kentucky, project as authorized by section 202 of Public
Law 96-367 (Levisa/Tug Forks of Big Sandy River and Upper Cumberland
River, West Virginia, Virginia, and Kentucky); and in
addition, $68,000,000, to remain available until expended, for 68,000,000
construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $38,000,000 for Locks and Dams 1 and 2, and $30,000,000 with which the Secretary of the Army is directed, as a minimum, to award continuing contracts in fiscal year 1987 for construction and completion of each of the following features of the Red River Waterway: Lock and Dam No. 3 Phase III (consisting of the main lock and dam and connecting channels), realignment and bank stabilization measures in Pools 3, 4, and 5, including but not limited to Saint Maurice, Kadesh, Socot, Powhattan, Ile Au Vaches, Campti, Smith Island, Carroll, and Wilkerson Point Realignments, and Cognac and Lumbra Revetments. The Secretary is further directed to initiate and complete both the Lock and Dam No. 3 Phase IIB (consisting of the initial excavation for the lock and dam, the north cofferdam, the reservation mound and disposal area) and Phase IIC (consisting of the remaining access roads) contracts in fiscal year 1987. None of these contracts are to be considered fully funded. Contracts are to be initiated, or initiated and completed, with funds herein provided: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall provide funds for design and construction of a storage facility including necessary conveyances, to resolve a water quality problem associated with Dam Site 18 of the Papillion Creek and Tributaries Lakes, Nebraska. The funds are to be provided from available funds: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct flood control structures in accordance with the plan contained in the reevaluation report of the Chief of Engineers for Papillion Creek and Tributaries Lakes, Nebraska, dated March 1985 (revised October 1985). Features of such project authorized by the Flood Control Act of 1968 but eliminated by or otherwise not in accordance with the reevaluation report are not authorized after the date of enactment of this Act: *Provided further,* That section 123 of Public Law 99-190 is amended by striking out "at an estimated cost of $1,000,000" and inserting in lieu thereof "a cost of $2,300,000".

[*Total, Construction, General $1,152,150,000.*]

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended,
$10,000,000, to remain available until expended. 10,000,000

Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $310,797,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist. The Secretary of the Army, acting through the Chief of Engineers, is hereby directed to repair the Pumping Station and Gravity Outlets at the City of DeValls Bluff, Arkansas, authorized by the Flood Control Act of August 18, 1941, as amended by the Flood Control Act of July 24, 1946, at an estimated cost of $250,000.

$310,797,000

Operation and Maintenance, General

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,389,846,000, to remain available until expended, of which $12,500,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), and of which $7,400,000 shall be for construction of recreation facilities (including a recreation lake) at Sepulveda Dam, California: *Provided,* That not to exceed $8,000,000 shall be available for obligation for mobilization planning activities.

1,389,846,000

Revolving Fund

For construction of a dustpan dredge and for the Corps of Engineers Automation Plan, $12,000,000, to remain available until expended (33 U.S.C. 576).

12,000,000

General Expenses

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $115,000,000, to remain available until expended.

115,000,000

Administrative Provisions

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 250 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS, CORPS OF ENGINEERS

SEC. 101. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering, construction and the operation and maintenance of the Des Moines Recreational River and Greenbelt project as described in Conference Report 99-236 using funds heretofore, herein and hereafter appropriated. Notwithstanding the language contained in the 1985 Supplemental Appropriations Act, Public Law 99-88, the Corps of Engineers shall continue their work on the General Design Memorandum, which shall be completed by October 1987 to serve as a master plan for the overall project. The design memorandum must address all enhancements contained in the list prepared by the Des Moines Recreational River and Greenbelt Advisory Committee. The project after construction will be operated and maintained at full Federal expense.

SEC. 103. Notwithstanding any conditions to the contrary in executed local cooperation agreements, where such agreements exist, initiation of construction of new Department of the Army water resource projects funded and authorized by Public Law 99-88 shall not be contingent upon enactment of legislation imposing a Federal port use charge or increasing the tax imposed by section 4042 of the Internal Revenue Code of 1954. Upon fulfillment of all other conditions and subject to such other terms as might appear in a local cooperation agreement, where required, for such a project, the Secretary shall initiate and complete construction of the project. Once construction has been initiated, no work in connection with such project shall be considered a "new start" for budgetary or funding purposes.

SEC. 104. None of the funds provided in this act, or any other act, may be used by the Corps of Engineers to lease, contract or otherwise transfer to a non-government entity any parks or recreation resources, or the management or operation thereof, located at Greers Ferry Lake or Little Red River in the State of Arkansas, for which such arrangements did not exist on or before September 1, 1986, until the Corps has studied the economic, environmental and public use impact of leasing to private enterprise the parks and other recreation resources at lakes, reservoirs and reaches of river under its jurisdiction and such study has been reviewed by the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works in the Senate.

SEC. 105. None of the funds made available by this Act or any other Act for any fiscal year may be used hereafter to study, to plan, to implement, to construct, or to issue any permit for the Northfield Mountain Water Supply Project, Massachusetts or the Millers and Tully Rivers Water Supply Project, Massachusetts: *Provided*, That this section shall not apply to environmental studies undertaken by the United States Fish and Wildlife Service: *Provided further*, That this shall not be construed as a precedent for any other Corps permit in any other State or region.

SEC. 106. Within available funds, the Secretary of the Army acting through the Chief of Engineers is authorized and directed to modify the Black Warrior and Tombigbee Rivers, Alabama, project, to provide a safe channel and general navigation facilities in the vicinity of Jackson, Alabama, at an estimated cost of $8,200,000. Necessary training works to provide a safe channel shall be constructed at full Federal expense as part of the Operation and Maintenance, General program. Development of general navigation facilities to provide a spur canal for a port facility at Jackson, at an estimated cost of $2,300,000, shall be part of the Construction, General program and shall be cost shared under terms and conditions acceptable to the Secretary of the Army as set forth in a binding agreement with a non-Federal sponsor desiring to participate in project construction.

[*Total, title I, Department of Defense—Civil, new budget (obligational) authority (all definite appropriations), $3,126,080,000.*]

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $29,409,000: $29,409,000 *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $602,158,000, of which $110,929,000 shall 602,158,000 be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $145,596,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to the heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further*, That of the amount herein appropriated, such amounts as may be required shall be available to continue improvement activities for the Lower Colorado Regional Complex: *Provided further*, That section 507 of Public Law 92–514 (86 Stat. 970) is amended by striking out "$79,500,000 (based upon January 1972 prices)" and inserting in lieu thereof "$333,865,000 (based upon July 1984 prices)": *Provided further*, That of the total herein appropriated in this account, the Secretary of the Interior is authorized to obligate no more than $8,800,000 by August 1, 1987, for the San Joaquin Valley Drainage Program: *Provided further*, That Section 8 of the Act of June 3, 1960 (74 Stat. 156; Public Law 86–488), is amended by inserting "(a)" after "SEC. 8." and by inserting at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, none of the costs associated with, or resulting from, the following which have been or will be incurred shall be recovered by the Secretary, directly or indirectly, from power contractors of the Central Valley project:

"(1) the construction of such distribution systems and drains as are not constructed by local interests;

"(2) the construction of the San Luis interceptor drain; or

"(3) the construction of acquisition of any facilities by the United States or the Westlands Water District as partial or full alternatives to the San Luis interceptor drain.".

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $140,000,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That fund advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That nonreimbursable funds will be available from revenues for performing examination of existing structures on participating projects of the Colorado River Storage Project.

$140,000,000

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), including expenses necessary for carrying out the program, $37,480,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $43,806,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

37,480,000

43,806,000
(limitation on direct loans)

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver Engineering and Research Center, and offices in the six regions of the Bureau of Reclamation, $51,200,000, of which $2,000,000, shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

51,200,000

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

1,000,000

WORKING CAPITAL FUND

For acquisition of the Bureau's computer aided design and drafting system, $6,400,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571), the total amount to be derived from the reclamation fund. $6,400,000

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or the Colorado River development fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) and the Act of July 19, 1940 (43 U.S.C. 618a), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the special fund from which derived.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 12 passenger motor vehicles of which 10 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for plan formulation and advance planning investigations, and general engineering and research under the head "General Investigations".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

The costs of the Seedskadee Project may be reallocated in order to reflect revised project beneficial purposes.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Of the appropriations provided for the Central Utah Project, in this or any other Act, not more than 20 percent of the total in any one fiscal year may be expended by the Secretary for all administrative expenses: *Provided*, That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further*, That the Bureau of Reclamation's General Administrative Expenses appropriation shall be used to fund the audit: *Provided further*, That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of the project.

SEC. 206. The Central Utah Water Conservancy District shall pay principal and interest on those features of the Central Utah Project which develop 60,000 acre-feet of municipal and industrial water supply for which deferral was invoked in 1981, without the benefit of exceptions (1) and (2) of the last proviso of the first sentence of section 301(b) of the Water Supply Act of 1958, 43 U.S.C. 390(b)(2): *Provided,* That in the event that the Bonneville Unit is not substantially complete, as determined by the Secretary, at the end of fiscal year 1995, the Central Utah Water Conservancy District will be credited with $2,000,000 to be applied to its repayment obligation for the Bonneville Unit each year that the project is not substantially complete, as determined by the Secretary, but in no case beyond fiscal year 2000.

[Total, title II, Department of the Interior:
[New budget (obligational) authority .... *$867,647,000.]*
[Limitation on direct loans .... *43,806,000.]*

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 18 for replacement only), $1,347,048,000, to remain available until expended; in addition $684,158,000 shall be derived by transfer from Uranium Supply and Enrichment Activities provided in prior years and shall be available until expended; and of which $84,100,000 which shall be available only for the Center for New Industrial Materials; the Center for Nuclear Imaging Research; the Energy Research Complex; Saint Christopher's Hospital for Children—Energy Demonstration Project; Center for Excellence in Education—Energy Utilization Performance Project; the Institute of Nuclear Medicine; the Advanced Science Center; the Center for Science and Engineering; and funds provided for byproducts utilization activities shall be available only for the following regional projects: Florida Department of Agriculture and Consumer Services; Hawaii Department of Planning and Economic Development; Iowa State University; Oklahoma, Red-Ark Development Authority; Washington, Port of Pasco; State of Alaska.

$1,347,048,000
684,158,000
(by transfer)

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 33 for replacement only); $1,210,400,000, to remain available until expended; *Provided,* That revenues received by the Department for the enrichment of uranimum and estimated to total $1,286,400,000 in fiscal year 1987, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by

1,210,400,000
[1] −1,286,400,000
(revenues)

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[1] Application of revenues limited to actual costs in accordance with proviso at end of paragraph

section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1987 so as to result in a final fiscal year 1987 appropriation estimated at not more than $0.

[Total, Uranium Supply and Enrichment Activities (net), −$76,000,000.]

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy, activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 12 for replacement only); $708,400,000 to remain available until expended. $708,400,000

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, including the acquisition of real property or facility construction or expansion, $499,000,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided,* That of the funds available, $2,500,000 shall be provided to the State of Oregon for the purpose of researching, with respect to nuclear activities carried out at the Hanford Federal Reservation in Richland, Washington, the effects of such nuclear activities on the health of the people of Oregon and on the environment of Oregon. 499,000,000

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 344 of which 320 are for replacement only) including 36 police-type vehicles; and purchase of five aircraft, three of which are for replacement only, $7,477,750,000, to remain available until expended: *Provided,* That the Department is directed to provide the Committees on Appropriations within 120 days of enactment of this Act with a plan and schedule to discontinue disposal of contaminated liquids into the soil at the Hanford Reservation: *Provided further,* That (a) To provide for a security buffer zone for the United States Department of Energy's Savannah River Plant near Aiken, South Carolina, title, control, and custody to six thousand twenty-one acres, more or less, of United States Department of Agriculture, Forest Service, lands shown on a map entitled "Forest Service Property Transfer, Savannah River Plant, Aiken, South Carolina", dated June 1984, are transferred without cost or reimbursement to the United States Department of Energy. 7,477,750,000

The map and legal description of the boundaries of these lands shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, the Director of Real Property and Facilities Management, United States Department of Energy, and appropriate field offices of those agencies. (b) This joint resolution does not affect valid existing rights, or interests in existing land use authorizations, except that any right or authorization shall be administered by the Department of Energy after the enactment of this joint resolution. Reissuance of any authorization shall be in accordance with applicable law and the regulations of the Department of Energy, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any authorization: *Provided further,* That if the Department of Defense Authorization Act, 1987, is enacted into law by December 31, 1986, the funds provided in this paragraph for the Strategic Defense Initiative shall be limited to the amount and in the manner provided for in that legislation.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $17,500) $395,558,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $251,947,000 in fiscal year 1987 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1987 so as to result in a final year 1987 appropriation estimated at not more than $143,611,000.

$395,558,000

−251,947,000
(revenues)

[*Total, Departmental Administration (net), $143,611,000.*]

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $2,881,000, to remain available until expended.

2,881,000

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for Enloe Dam Fish Passage Facilities. Expenditures are also approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $10,000,000.

10,000,000
(limitation on
direct loans)

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $19,647,000, to remain available until expended. $19,647,000

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,337,000, to remain available until expended. 25,337,000

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase of passenger motor vehicles (not to exceed 4 for replacement only), $236,846,000, to remain available until expended, of which $214,835,000, shall be derived from the Department of the Interior Reclamation fund: *Provided*, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,463,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984. 236,846,000 *3,463,000 (by transfer)*

[*Total, Power Marketing Administrations, $284,711,000.*]

Federal Energy Regulatory Commission

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $1,500); $99,079,000, of which $3,000,000 shall remain available until expended and be available only for contractual activities: *Provided*, That hereafter and notwithstanding any other provision of law revenues from licensing fees, inspection services, and other services and collections, estimated at $78,754,000 in fiscal year 1987, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further*, That 99,079,000 −78,754,000 *(revenues)* the sum herein appropriated shall be reduced as revenues are received during fiscal year 1987, so as to result in a final fiscal year 1987 appropriation estimated at not more than $20,325,000.

[*Total, Federal Energy Regulatory Commission (net), $20,325,000.*]

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $72,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

$72,000

500,000,000 (limitation on loan guarantees)

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities covered in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. None of the funds provided in this joint resolution or in any other law may be used to implement the following provisions of the uranium enrichment criteria submitted to Congress on July 24, 1986:

(i) section 762.3, which specifies the permitted enrichment of source material of foreign origin for use in domestic utilization facilities;

(ii) the third sentence of section 762.11, to the extent that it provides limitations on free choice of transaction tails assays from 0.2 percent to 0.3 percent U-235 or imposition of an additional charge for selections in that range;

(iii) section 762.15, to the extent it might be construed to validate contract provisions permitting unrestricted delivery and enrichment of foreign-origin feed material after a final court decision requiring restriction of enrichment of foreign-origin source material for domestic use or permitting imposition of additional charges for customer selections of transaction tails assays within the range of 0.2 percent to 0.3 percent U-235;

(iv) any portion of the criteria or provision in any contract which permits or results in reduction of the amount of feed material otherwise required to be delivered to DOE by commercial customers as a result of use of source material or special nuclear material from the government stockpiles in providing toll enrichment services for commercial customers;

(v) section 762.6 hereafter, insofar as it may convey a determination of the level of unrecouped costs that must be returned to the Treasury by the enrichment program, which determination shall be made by the Congress in future legislation.

The funds provided in this joint resolution shall be used to operate the enrichment program, consistent with the spending limitations imposed by this section, on the basis that the uranium enrichment criteria submitted to Congress on July 24, 1986 (except section 762.3 thereof) are in force and effect as modified above: *Provided*, That notwithstanding the effectiveness of the criteria as described above until amended or superseded in accordance with the Atomic Energy Act, except as is otherwise specifically provided by law, foreign-origin uranium may be enriched for domestic use only until a final judgment or dismissal in the pending litigation that determines whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material, in which case the criteria shall be amended to impose such restrictions, or such unrestricted enrichment may continue, whichever is consistent with the decision of this question in the pending litigation: *Provided further*, That in expending funds hereunder, the Department shall be required to offer each customer, free of additional charge and irrespective of percentage of requirements contracted for, a transaction tails assays from 0.2 percent to 0.3 percent U-235: *Provided further*, That no provision of this joint resolution or the July 24, 1986, criteria shall affect the merits of the legal position of any of the parties concerning the questions whether section 161(v) of the Atomic Energy Act requires restriction of enrichment of foreign-origin source material destined for use in domestic utilization facilities, and whether distribution may be made of source material or special nuclear material from the government stockpile for commercial customers, in the pending litigation in the United States Court of Appeals for the Tenth Circuit and in the United States District Court for the District of Colorado.

[*Total, title III, Department of Energy:*

[*New budget (obligational) authority (all definite appropriations) (net)*	*$10,404,917,000.*]
[*By transfer*	*687,621,000.*]
[*Limitation on direct loans*	*10,000,000.*]
[*Limitation on loan guarantees*	*500,000,000.*]

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $105,000,000. $105,000,000

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $185,000. 185,000

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $200,000. 200,000

[*Total, Delaware River Basin Commission, $385,000.*]

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $79,000. 79,000

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SALARIES AND EXPENSES

For expenses necessary to carry out provisions of the Public Works Improvement Act of 1984, section 3121 of title 42, United States Code, $1,750,000. 1,750,000

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $8,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $401,000,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program and the material and information access authorization programs including criminal history checks under Section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended. $401,000,000

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $179,000. 179,000

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $240,000. 240,000

[*Total, Susquehanna River Basin Commission, $419,000.*]

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $100,000,000 to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948A of title 5, United States Code: *Provided further*, That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1987, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further*, That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies. 100,000,000

[*Total, title IV, Independent Agencies, new budget (obligational) authority (all definite appropriations), $608,633,000.*]

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reductions", or the provisions of Public Law 99-177.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act shall be used to pay the salary of the Administrator of a Power Marketing Administration or the Board of Directors of the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund, extablished pursuant to Public Law 93-454, may be used to pay the salary of the Administrator of the Bonneville Power Administration, unless such Administrators or Directors award contracts for the procurement of extra high voltage (EHV) power equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

Sec. 508. None of the funds in this Act may be used to construct or enter into an agreement to construct additional hydropower units at Denison Dam—Lake Texoma.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1987".

[*Total, Energy and Water Development Appropriations, 1987:*

[*New budget (obligational) authority*	*$15,007,277,000.*]
[*Limitation on direct loans*	*53,806,000.*]
[*Limitation on guaranteed loans*	*500,000,000.*]
[*By transfer*	*687,621,000.*]

(f) such amounts as may be necessary for projects or activities provided for in the Foreign Assistance and Related Programs Appropriations Act, 1987, at a rate for operations and to the extent and in the manner provided for in the following Act; this subsection shall be effective as if it had been enacted into law as the regular appropriations Act:

(Foreign Assistance and Related Programs Appropriations Act, 1987)

AN ACT

Making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1987, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

International Financial Institutions

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $55,805,000 for the General and Selective Capital Increase, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. $55,805,000

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $688,261,667. *688,261,667 (limitation on callable capital subscriptions)*

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $622,623,251, for the United States contribution to the seventh replenishment, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a 622,623,251 rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director ~~to the~~ Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE SPECIAL FACILITY FOR SUB-SAHARAN AFRICA

For payment to the Special Facility for Sub-Saharan Africa by the Secretary of the Treasury, $64,805,000, to remain available until expended: *Provided*, That funds made available under this heading shall be obligated to the Special Facility for Sub-Saharan Africa no later than March 1, 1987. $64,805,000

[*Total, contributions to the World Bank Group:*
[*New budget (obligational) authority* .... *$743,233,251.*]
[*Limitation on callable capital* .... *688,261,667.*]

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the increase in the resources of the Fund for Special Operations, $17,263,000, to remain available until expended; and $16,417,000, for the United States share of the increase in paid-in capital stock to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director for the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 17,263,000 16,417,000

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $1,111,561,128. *1,111,561,128 (limitation on callable capital subscriptions)*

[*Total, contributions to the Inter-American Development Bank:*
[*New budget (obligational) authority* .... *$33,680,000.*]
[*Limitation on callable capital* .... *1,111,561,128.*]

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,232,676 to remain available until expended; and for the United States contribution to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $91,406,000 to remain available until expended: *Provided*, That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under 13,232,676 91,406,000 section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such increase in capital stock in an amount not to exceed $251,367,220. *$251,367,220 (limitation on callable capital subscriptions)*

[*Total, contributions to the Asian Development Bank:*

[*New budget (obligational) authority* .... *$104,638,676.*]

[*Limitation on callable capital* .... *251,367,220.*]

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $53,788,000, for the United States contribution to the fourth replenishment of the African Development Fund, to remain available until expended. 53,788,000

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $13,988,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. 13,988,000

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $41,980,980. *41,980,980 (limitation on callable capital subscriptions)*

[*Total, contributions to International Financial Institutions:*

[*New budget (obligational) authority* .... *$949,327,927.*]

[*Limitation on callable capital* .... *2,093,170,995.*]

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $237,264,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds made available by this paragraph shall be available only as follows: $107,500,000 for the United Nations Development Program; $51,080,000 for the United Nations Children's Fund; $1,818,000 for the World Food Program; $861,000 for the United Nations Capital Development Fund; $219,000 for the 237,264,000

United Nations Voluntary Fund for the Decade for Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $20,500,000 for the International Atomic Energy Agency; $6,800,000 for the United Nations Environment Program; $789,000 for the United Nations Educational and Training Program for Southern Africa; $250,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $172,000 for the Convention on International Trade in Endangered Species; $219,000 for the World Heritage Fund; $86,000 for the United Nations Voluntary Fund for Victims of Torture; $100,000 for the United Nations Fellowship Program; $150,000 for the UNIDO Investment Promotion Service; $400,000 for the Center on Human Settlements; $13,500,000 for the Organization of American States; and $28,710,000 for the International Fund for Agricultural Development, of which $10,000,000 shall be made available for the Special Program for Sub-Saharan African Countries Affected by Drought and Desertification.

[*Total, title I, Multilateral Economic Assistance:*

[*New budget (obligational) authority*	*$1,186,591,927.*]
[*Limitation on callable capital*	*2,093,170,995.*]

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1987, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agriculture, rural development and nutrition, Development Assistance: For necessary expenses to carry out the provisions of section 103, $639,613,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $6,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this paragraph may be available for agricultural activities in Poland which are managed by the Polish Catholic Church or other non-governmental organizations. $639,613,000

Population, Development Assistance: For necessary expenses to carry out the provisions of section 104(b), $234,625,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall 234,625,000

comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Health, Development Assistance: For necessary expenses to carry out the provisions of section 104(c), $166,762,500. $166,762,500

Child Survival Fund: For necessary expenses to carry out the provisions of section 104(c)(2), $75,000,000, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. 75,000,000

Education and human resources development, Development Assistance: For necessary expenses to carry out the provisions of section 105, $155,000,000: *Provided,* That of this amount not less than $6,000,000 shall be made available only for the International Student Exchange Program. 155,000,000

Energy and selected development activities, Development Assistance: For necessary expenses to carry out the provisions of section 106, $140,328,500: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project. 140,328,500

Science and technology, Development Assistance: For necessary expenses to carry out the provisions of section 106, $9,661,500. 9,661,500

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than sub-Saharan Africa exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than sub-Saharan Africa in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Limitation on Development Assistance: None of the funds made available by this Act in order to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, may be expended to provide an amount which would result in the percentage of funds expended for centrally funded, country, or regional programs for areas other than Central America exceeding the percentage of total funds designated for centrally funded, country, or regional programs for areas other than Central America in fiscal year 1986, as shown in the fiscal year 1987 congressional presentation materials.

Haiti, Development Assistance: Of the funds made available to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, as amended, not less than $37,000,000 shall be available to support a transition to democracy through activities emphasizing job creation, rural development, health care, sanitation, small scale irrigation projects, reforestation, land conservation, and literacy education projects: *Provided,* That funds made available pursuant to this paragraph for Haiti shall be used to provide assistance, to the maximum extent practicable, equitably among the various regions of Haiti.

Private and Voluntary Organizations: None of the funds appropriated or otherwise made available in this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Private sector revolving fund: For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, as amended, not to exceed $15,553,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1987, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $15,553,000. *$15,553,000 (by transfer)*

Loan allocation, Development Assistance: In order to carry out the provisions of part I, the Administrator of the agency responsible for administering such part may furnish loan assistance pursuant to existing law and on such terms and conditions as he may determine: *Provided,* That to the maximum extent practicable, loans to private sector institutions, from funds made available to carry out the provisions of sections 103 through 106, shall be provided at or near the prevailing interest rate paid on Treasury obligations of similar maturity at the time of obligating such funds: *Provided further,* That amounts appropriated to carry out the provisions of chapter 1 of part I which are provided in the form of loans shall remain available until September 30, 1988.

[*Total, development assistance, $1,420,990,500.*]

American schools and hospitals abroad: For necessary expenses to carry out the provisions of section 214, $35,000,000. 35,000,000

International disaster assistance: For necessary expenses to carry out the provisions of section 491, $70,000,000, to remain available until expended: *Provided,* That not less than $50,000,000 shall be available only for earthquake relief, reconstruction, and rehabilitation in El Salvador, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. 70,000,000

Sahel development program: For necessary expenses to carry out the provisions of section 121, $70,000,000, to remain available until expended: *Provided,* That no part of such appropriation may be available to make any contribution of the United States to the Sahel development program in excess of 10 percent of the total contributions to such program. 70,000,000

Payment to the Foreign Service Retirement and Disability Fund: For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $45,492,000. 45,492,000

Operating expenses of the Agency for International Development: For necessary expenses to carry out the provisions of section 667, $340,600,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That the Agency for International Development may use amounts appropriated to carry out the provisions of chapter 1 of part I (with the exception of the "Child Survival Fund") and chapter 4 of part II of the Foreign Assistance Act of 1961, for the overseas local support costs of its economic assistance programs and for the operating expenses of the Agency for International Development Office of Inspector General: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1987 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977), historically black colleges and universities, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who 340,600,000 are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women.

$21,000,000

Operating expenses of the Agency for International Development Office of Inspector General: For necessary expenses to carry out the provisions of section 667, $21,000,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the paragraph "Operating expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this paragraph: *Provided further,* That the full-time equivalent staff years for the Office of the Inspector General for the fiscal year 1987 shall not be less than one hundred and ninety-three: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to another country.

145,464,000 (limitation on guananteed loans)

Housing and other credit guaranty programs: During the fiscal year 1987, total commitments to guarantee loans shall not exceed $145,464,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided by this paragraph, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, as amended, borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1987.

[*Subtotal, Agency for International Development,* [1] *$2,103,082,500.*]

3,550,000,000

Economic support fund: For necessary expenses to carry out the provisions of chapter 4 of part II, $3,550,000,000 including such funds as may be made available in fiscal year 1987 for Economic support funds for Central American countries through final enactment of section 205 of H.R. 5052: *Provided,* That of the funds appropriated under this paragraph, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1986, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not less than $115,000,000 shall be provided as a cash transfer in accordance with the provisions of section 202(b) of Public Law 99-83, and not less than $200,000,000 shall be provided as a Commodity Import Program: *Provided further,* That notwithstanding any other provision of law, the Agency for International Development is authorized to obligate such funds as it deems necessary in excess of $115,000,000 from the funds appropriated for assistance to Egypt for the fiscal year 1987 as direct cash transfer for Egypt: *Provided further,* That such obligations in excess of $115,000,000 shall only be made in support of the implementation of a comprehensive structural economic reform program by the Government of Egypt: *Provided further,* That all such cash transfers in excess of $115,000,000 shall be subject to the regular notification procedures of the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Appropriations Committees of the House and Senate: *Provided further,* That such notifications for the provision of cash transfers in excess of

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[1] Includes $100,000,000 (indefinite) from sec. 515 (see p. 403, this volume).

$115,000,000 shall include detailed descriptions of the comprehensive structural economic reform program of the Government of Egypt: *Provided further,* That if the Agency for International Development obligates cash transfer assistance for Egypt exceeding $115,000,000, as permitted above, then such increased funding shall be derived through proportionate reductions in both the Commodity Import Program and project assistance: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty; and that Egypt and Israel are urged to continue their efforts to restore a full diplomatic relationship, including ambassadors, and achieve realization of the Camp David Accords: *Provided further,* That not less than $250,000,000 of the funds appropriated under this paragraph shall be available only for Pakistan: *Provided further,* That not less than $35,000,000 of the funds appropriated under this paragraph shall be available for a United States contribution to the International Fund for Northern Ireland and Ireland: *Provided further,* That not less than an additional sum of $200,000,000 shall be available only for the Philippines: *Provided further,* That not less than $15,000,000 of the funds appropriated under this paragraph shall be available for Cyprus: *Provided further,* That up to $15,000,000 shall be made available for Jordan in addition to funds otherwise made available by this paragraph and allocated to Jordan: *Provided further,* That any of the funds appropriated under this paragraph for El Salvador which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98–1159): *Provided further,* That pursuant to section 660(d) of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this paragraph shall be made available to assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That up to $20,000,000 of the funds appropriated under this paragraph may be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That up to $20,000,000 of the funds made available by this paragraph may be provided to countries that are receiving "International Narcotics Control" assistance and that have made substantial progress in illicit drug control efforts: *Provided further,* That all funds made available pursuant to the previous proviso shall be subject to the regular notification procedures of the Committees on Appropriations and that such notifications shall contain an explanation of the progress in illicit drug control that has been made by the recipient country: *Provided further,* That all of the funds provided under this paragraph which are made available for disadvantaged persons in South Africa shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That after February 1, 1987, any country which receives in excess of a total of $5,000,000 as cash transfer assistance shall maintain such funds in a separate account and shall not commingle such funds with any other funds, except that such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with funds provided as a cash transfer in accordance with the previous proviso shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That not more than $5,000,000 of the funds made available under this paragraph may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That funds made available under this paragraph shall remain available until September 30, 1988.

[*Total, Agency for International Development, $5,653,082,500.*]

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $6,500,000, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. $6,500,000

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $11,800,000. 11,800,000

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1987 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000. *23,000,000 (limitation on direct loans)*

During the fiscal year 1987, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal. *200,000,000 (limitation on guananteed loans)*

[*Total, Funds Appropriated to the President, $5,671,382,500.*]

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $130,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated in this paragraph shall be used to pay for abortions. 130,000,000

Department of State

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481, $65,445,000, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. $65,445,000

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980, allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $346,856,000: *Provided*, That not less than $25,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That these funds shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further*, That not more than $8,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That amounts appropriated under this heading shall be available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. 346,856,000

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $14,000,000, to remain available until expended 14,000,000

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II, $9,840,000. 9,840,000

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided*, That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1987: *Provided further*, That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts: *Provided further*, That not more than half of the funds which are appropriated under this paragraph and which are allocated for the United Nations Force in Cyprus may be obligated for the United 31,689,000

States contribution to that Force until the Secretary of State submits a report to the Congress detailing how the United States and other contributing countries plan to eliminate the financial deficit of that Force.

[Total, Department of State, $467,830,000.]

[Total, title II, Bilateral Economic Assistance:

[New budget (obligational) authority	*$6,269,212,500.]*
[Definite	*6,169,212,500.]*
[Indefinite	*100,000,000.]*
[Limitation on direct loans	*23,000,000.]*
[Limitation on guaranteed loans	*345,464,000.]*
[By transfer	*15,553,000.]*

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $900,000,000: *Provided,* That none of the funds under this heading shall be obligated for law enforcement agencies in El Salvador and Honduras until the notification required under Section 660(d) of the Foreign Assistance Act of 1961, as amended, is provided to the Committees on Appropriations: *Provided further,* That of the funds provided under this paragraph not more than $37,000,000 shall be used for "Overseas Military Program Management": *Provided further,* That the reports required by section 702 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) shall also be provided to the Committees on Appropriations: *Provided further,* That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That amounts appropriated under this heading shall be available notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956. $900,000,000

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $56,000,000. 56,000,000

FOREIGN MILITARY CREDIT SALES

For expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,040,441,284 of which not less than $1,800,000,000 shall be available only for Israel, not less than $1,300,000,000 shall be available only for Egypt, and not less than $312,500,000 shall be available only for Pakistan: *Provided,* That if the Government of Israel requests that funds be used for such purposes, up to $150,000,000 of the amount of credits made available for Israel pursuant to this paragraph shall be available for research and development in the United States for the Lavi program, and not less than $300,000,000 shall be for the procurement in Israel of defense articles and services, including research and development, for the Lavi program and other activities if requested by Israel: *Provided further,* That funds for the Lavi program shall be expended upon the Department of Defense's 4,040,441,284 determination that the proposed contracts meet applicable technical standards: *Provided further,* That during fiscal year 1987, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,040,441,284: *Provided further,* That any funds made available by this paragraph, other than funds made available for Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further,* That the concessional rate of interest on foreign military credit sales loans for countries other than Israel and Egypt shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this paragraph shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That of the funds made available by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and section 23 of the Arms Export Control Act, a total of $490,000,000 shall be available only for Turkey and, of the funds made available by this paragraph, only $343,000,000 shall be available for Greece, notwithstanding sections 101 (e)(1) and (f) of Public Law 99-83.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $315,820,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1987. *$315,820,000 (limitation on obligations)*

[*Total, title III, Military Assistance:*
[*New budget (obligational) authority* .... *$4,996,441,284.*]
[*Limitation on obligations* .... *315,820,000.*]

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1987 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $900,000,000, including such resources and authority as are made available in Public Law 99-349 for fiscal year 1987: *Provided,* That, if the Chairman of the Export-Import Bank [1]900,000,000 *900,000,000 (limitation on direct loans)* certifies that such budget authority will not be fully utilized during the fiscal year 1987, up to $100,000,000 of that amount may be available, subject to the regular notification procedures of the Appropriations Committees of the Senate and House of Representatives, as tied aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied aid credits which are made available from time to time, but not to exceed $100,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1987, total commitments to guarantee loans shall not exceed $11,355,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided in this paragraph shall remain available until September 30, 1988.

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[1] Reflects new budget (obligational) authority corresponding to the limitation on Export-Import Bank direct loans.

$11,355,000,000 (limitation on guaranteed loans)

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $18,371,500 (to be computed on an accrual basis) shall be available during fiscal year 1987 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

18,371,500 (limitation on administrative expenses)

[Total, Export-Import Bank of the United States:

[New budget (obligational) authority	[1]*$900,000,000.]*
[Limitations on use of corporate funds	*12,273,371,500.]*

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661, $20,000,000.

20,000,000

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1987, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $275,000,000 of contingent liability for loan principal.

275,000,000 (limitation on program activity)

[Total, title IV, Export Assistance:

[New budget (obligational) authority	*$920,000,000.]*
[Limitation on direct loans	*900,000,000.]*
[Limitation on guaranteed loans	*11,355,000,000.]*
[Limitation on administrative expenses	*18,371,500.]*
[Limitation on program activity	*275,000,000.]*

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[1] Reflects new budget (obligational) authority corresponding to the limitation on Export-Import Bank direct loans.

TITLE V—GENERAL PROVISIONS

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International organizations and programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

SEC. 502. Except for the appropriations entitled "International disaster assistance", and "United States emergency refugee and migration assistance fund" not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $110,000 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $10,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $100,000 shall be for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the total funds made available by this Act under the headings "Military assistance" and "Foreign military credit sales", not to exceed $2,500 shall be available for entertainment expenses and not to exceed $70,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International military education and training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,500 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,000 shall be available for representation and entertainment allowances.

SEC. 510. None of the funds appropriated or made available (other than funds for "International organizations and programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria.

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree.

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the written prior approval of the Appropriations Committees of both Houses of the Congress.

[1]($100,000,000) *(indefinite, estimated)*

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the paragraphs under the heading "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations in such paragraphs or until September 30, 1987 whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds.

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

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[1] Included in total for AID (see p. 395, this volume).

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by the management of the international financial institution.

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SEC. 522. The Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 523. None of the funds made available under this Act for "Agriculture, rural development and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "Education and human resources development, Development Assistance", "Energy and selected development activities, Development Assistance", "Science and technology, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Sahel development program", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Antiterrorism assistance", "Military assistance", "International military education and training", "Foreign military credit sales", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

SEC. 526. None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1986, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

SEC. 527. Notwithstanding any other provision of law or this Act, none of the funds provided for "International organizations and programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

SEC. 528. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall be in the identical format as the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986.

SEC. 529. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

SEC. 530. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

SEC. 531. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic support fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

SEC. 532. None of the funds made available in this Act shall be restricted for obligation or disbursement solely as a result of the policies of any multilateral institution.

SEC. 533. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent act unless such act specifically so directs.

SEC. 534. The Secretary of the Treasury and the Secretary of State are directed to submit to the Committees on Appropriations by February 1, 1987, a report on the domestic economic policies of those nations receiving economic assistance, either directly or indirectly from the United States including, where appropriate, an analysis of the foreign assistance programs conducted by these recipient nations.

SEC. 535. None of the funds appropriated or otherwise made available pursuant to this Act for "Economic support fund" or for "Foreign military credit sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 536. Of the funds made available by this Act for Jamaica and Peru, not more than 50 per centum of the funds made available for each country shall be obligated unless the President determines and reports to the Congress that the Governments of these countries are sufficiently responsive to the United States Government concerns on drug control and that the added expenditures of the funds for that country are in the national interest of the United States: *Provided*, That this provision shall not be applicable to funds made available to carry out section 481 of the Foreign Assistance Act of 1961: *Provided further*, That assistance may be provided to Bolivia for fiscal year 1987, under chapter 2 (relating to grant military assistance), chapter 4 (relating to the economic support fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961, and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing), only in accordance with the provisions of section 611 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83) as amended by section 2011 of H.R. 5484 as passed by the Senate on September 30, 1986.

SEC. 537. None of the funds available in this Act may be used to make available to El Salvador any helicopters or other aircraft, and licenses may not be issued under section 38 of the Arms Export Control Act for the export to El Salvador of any such aircraft, unless the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate are notified at least fifteen days in advance in accordance with the procedures applicable to notifications.

SEC. 538. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

SEC. 539. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to—

(A) add professionally trained staff with experience in ecology and related areas to undertake environmental review of projects, and strengthen existing staff exercising environmental responsibilities;

(B) develop and implement management plans to ensure systematic and thorough environmental review of all projects and activities affecting the ecology and natural resources of borrowing countries, including—

(i) creation of a line unit to carry out such reviews as part of the normal project cycle,

(ii) appointment of an environmental advisor to the Presidents of the Multilateral Development Banks,

(iii) institution of a regular program of monitoring all ongoing projects to ensure that contract conditions and general bank policies to protect the environment and indigenous peoples are fully complied with;

(C) create career and other institutional incentives for all professionally trained bank staff to incorporate environmental and natural resources concerns into project planning and country programming activities;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will prompt staff and encourage borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, at the national, regional and local level, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly seek the participation of non-governmental indigenous peoples and conservation organizations in the host countries at all stages of project planning and strategy sessions;

(C) fully inform local communities and appropriate non-governmental organizations with interests in local development projects of all project planning sufficiently in advance of project appraisal to allow informed participation of local communities and non-governmental organizations that may be adversely affected by them;

(3) establish a regular integrated multidisciplinary planning process to conduct land use capability analyses in reviewing potential loans. Such plans shall include, but not be limited to, a review of ongoing or other potential resource utilization efforts in and adjacent to the project area;

(4) vigorously promote a commitment of these institutions to develop and implement plans for the rehabilitation and management of the ecological resources of borrower nations on a sustained basis. Special attention shall be paid to soil conservation, wildlife, wetlands, estuaries, croplands, grasslands, forests, and fisheries, including—

(A) long-term programs of research designed to manage ecosystems properly;

(B) provision of adequate extension workers, park rangers, social forestry experts, and other appropriate personnel; and

(C) improved programs of training in environmental science and land-use planning;

(5) vigorously promote a commitment of these institutions to increase the proportion of their programs supporting environmentally beneficial projects and project components, such as technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems.

(6) place an increased emphasis on upgrading the efficient use of energy and other resources by borrower nations. Such efforts shall include, but not be limited to—

(A) significantly increasing the proportion of energy project lending for energy efficiency improvements, and decentralized small scale facilities such as solar, wind, or biomass generating facilities; and

(B) conducting an analysis of the comparative costs of any new energy generating facilities with the cost of increasing the energy efficiency in the project service area;

(7) seek a commitment of these institutions to fund projects to protect and preserve crucial wetland systems and to avoid expenditures for projects designed to convert major wetland systems. Development proposals which may affect these areas should be the subject of detailed impact assessments so as to avoid detrimental impacts to fisheries, wildlife and other important resources;

(8) vigorously promote the establishment within the Economic Development Institute of the World Bank of a component which provides training in environmental and natural resource planning and program development;

(9) regularly raise, at meetings of the Boards of Directors of these institutions, the issue of their progress in improving their environmental performance, with specific focus on the measures set forth above; and

(10) require at least a four week project review period between the time when staff recommendations are presented to the board and board action on any projects.

(b) The Secretaries of Treasury and State, and the Administrator of the Agency for International Development, shall ensure and coordinate a thorough evaluation within the United States Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs. The potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality; siltation; spread of waterborne diseases; forced resettlement; deforestation; threats to the land, health and culture of indigenous peoples; wetlands disruption; topsoil management, water logging and salinization in irrigation projects; and pesticide misuse and resistance.

(c) The Secretary of the Treasury and the Secretary of State shall regularly undertake and continue diplomatic and other initiatives, in addition to those mentioned in subsection (a)(5), to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives to these institutions, and with ministries from which they receive their instructions, of borrower and donor nations. In particular, joint efforts shall be undertaken with borrowers and donors to ensure cooperative implementation of the reforms described above.

(d) The Secretary of the Treasury and the Secretary of State shall propose formally that the Boards of Governors of each Multilateral Development Bank hold a special meeting within the next twelve months, focused specifically on environmental performance and better implementation of multilateral development policies designed to protect the environment and indigenous peoples.

(e) The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by January 15, 1987, and annually thereafter, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in paragraphs one through eight of subsection (a).

(f) In the report of the Secretary of the Treasury required by subsection (e), regarding the implementation of staffing measures suggested in subsection (a)(1)(A), the Secretary of the Treasury shall specifically discuss the progress of the International Bank for Reconstruction and Development in upgrading and adding environmentally trained professionals to each of its six regional offices to review projects for their prospective ecological impacts.

(g) The Administrator of the Agency for International Development in conjunction with the Secretaries of Treasury and State shall—

(1) instruct overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank projects proposed to be undertaken in the host country well in advance of a project's approval by the relevant institution. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) in preparation of reviews required by subsection (g)(1), compile a list of categories of projects likely to have adverse impacts on the environment, natural resources, or indigenous peoples. The list shall be developed in consultation with in-

terested members of the public and made available to the Committee on Appropriations by December 31, 1986 and semiannually thereafter; and

(3) study the feasibility of creating a cooperative "early warning system" for projects of concern with other interested donors.

(h) If a review required by subsection (g)(1) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the Multilateral Development Bank to seek changes to the project necessary to eliminate or mitigate those impacts.

(i) The Administrator of the Agency for International Development shall appoint a Committee on Health and the Environment to examine opportunities for assisting countries in the proper use of agricultural and industrial chemicals and processes and alternatives such as integrated pest management. The committee shall be broadly representative of industry, agriculture, labor, health and environmental interests and shall report its preliminary findings to Congress before hearings on the fiscal year 1988 budget.

SEC. 540. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

SEC. 541. Not less than $30,000,000 of the aggregate amount of funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

SEC. 542. None of the funds provided in this Act shall be available for the Sudan if the President determines that the Sudan is acting in a manner that would endanger the stability of the region, or the Camp David peace process.

SEC. 543. The President shall make available to the Cambodian non-Communist resistance forces not less than $1,500,000 nor more than $5,000,000 of the funds appropriated by this Act for "Military assistance" and for the "Economic support fund", notwithstanding any other provision of law: *Provided*, That funds appropriated by this Act for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

SEC. 544. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

SEC. 545. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

SEC. 546. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic support fund", "Foreign Military Credit Sales", "Military Assistance" program, "International military education and training", Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

SEC. 547. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

SEC. 548. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SEC. 549. None of the funds appropriated in this Act shall be obligated or expended for Sudan or Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

SEC. 550. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic support fund; Military Assistance; and Foreign military credit sales, "program, project, and activity" shall also be considered to include country, regional, and central program evel funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to nclude central program level funding, either as (1) justified to the Congress, or (2) allocated by the Executive Branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of a Foreign Assistance and Related Programs Appropriations Act or of enactment of a continuing resoution containing funding for these programs for the balance of the fiscal year 1987, as required by Section 653(a) of the Foreign Assistance Act of 1961, as amended, whichever is the more recent action.

SEC. 551. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to an additional $4,150,000 may be used to reimburse the U.S. Public Health Service or the Centers for Disease Control for the full cost of up to an additional thirty Public Health Service employees specifically for the purpose of carrying out immunization activities of the Child Survival Fund.

SEC. 552. Earmarks, limitations, and ceilings on programs, projects, and activities for fiscal year 1987 shall be treated as follows: (1) earmarks, limitations, and ceilings shall be as designated in this Act; (2) earmarks, limitations, and ceilings, in other legislation which pertain to foreign assistance programs funded by this Act, shall be reduced proportionately by a percentage equal to the percentage decrease in funds available in each account for countries other than Israel, Egypt, and Pakistan from fiscal year 1986 post sequestration funding levels to fiscal year 1987 appropriation levels; and (3) nothing in this section shall preclude the application of sequestration action in fiscal year 1987, if it occurs, from applying to all earmarks, limitations, and ceilings in this Act and in applying to earmarks, limitations, and ceilings in corresponding authorizations legislation.

SEC. 553. If any funds appropriated by this Act for "Economic support fund", "Military assistance", "International military education and training", or "Foreign military credit sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking (including any funds withheld pursuant to section 481(h) of the Foreign Assistance Act of 1961 or section 611 or 612 of the International Security and Development Cooperation Act of 1985), those funds shall be used for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) Except as provided in paragraph (2), those funds shall be transferred to the "International Narcotics Control" account in order to provide additional narcotics control assistance to those countries. Such transfers may be made without regard to the 20-percent increase limitation contained in section 610(a) of the Foreign Assistance Act of 1961. Such transfers shall be subject to the regular notification procedures of the Committees on Appropriations.

(2) Any of those funds—

(A) which the President determines (and reports to the Congress) should not be used for additional narcotics control assistance for those countries because the additional assistance could not be used effectively in halting illicit drug production or trafficking,

(B) whose transfer pursuant to paragraph (1) is not approved by the Appropriations Committees, or

(C) which are appropriated for "Foreign military credit sales",

shall be reprogrammed within the account for which they were appropriated (subject to regular reprogramming procedures of the Committees on Appropriations) in order to provide additional economic or military assistance (as the case may be) to those countries.

SEC. 554. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank for Haiti. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States for Haiti are effectively coordinated with the activities of the Inter-American Development Bank.

SEC. 555. (a) Section 49 of the Bretton Woods Agreements Act (22 U.S.C. 286gg) is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'multilateral development banks' means the International Bank for Reconstruction and Development, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.".

(b) Section 49(a)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(1)) is amended—

(1) by inserting before "the Fund" the first place it appears the following: "each of the multilateral development banks (in this section referred to as the 'banks') and of";

(2) by inserting "each of the banks and of" before "the Fund" the second place it appears;

(3) by inserting "banks and of the" before "Fund" the third place it appears; and

(4) by striking "Fund" the fourth place it appears.

(c) Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears; and

(2) by striking "Fund" the second place it appears and inserting "their".

(d) Section 49(b)(1) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(b)(1)) is amended—

(1) by inserting "each of the banks and of" before "the Fund" the first place it appears;

(2) by inserting "the banks and by" before "the Fund" the second place it appears; and

(3) by inserting "the banks and" before "the Fund" the third place it appears.

(e) Section 49(c) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting "bank and" before "Fund" each place it appears.

(f) Sections 49(c) (1) and (2) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(c)) is amended by inserting after the word "for" the first time it appears "loans or".

SEC. 556. Section 901(d) of the International Security and Development Cooperation Act of 1985 is hereby repealed.

SEC. 557. (a) It is the sense of Congress that pursuant to Section 701 of the International Institutions Act of 1977, the United States Government should oppose all loans to Chile from multilateral development institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) None of the funds made available by this Act for the "Economic support fund" or for Title III shall be obligated or expended for Chile.

SEC. 558. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SEC. 559. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, Schedule 8, Part I, Subpart B, Item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SEC. 560. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1987".

[Total, Foreign Assistance and Related Programs Appropriations, 1987:

[New budget (obligational) authority	*$13,372,245,711.]*
[Definite	*13,272,245,711.]*
[Indefinite	*100,000,000.]*
[By transfer	*15,553,000.]*
[Limitation on guaranteed loans	*11,700,464,000.]*
[Limitation on direct loans	*923,000,000.]*
[Limitation on callable capital	*2,093,170,995.]*
[Limitation on obligations	*315,820,000.]*
[Limitation on administrative expenses	*18,371,500.]*
[Limitation on program activity	*275,000,000.]*

(g) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5313, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-977) as filed in the House of Representatives on October 7, 1986, as if enacted into law: *Provided*, That, notwithstanding any other provision of this joint resolution, including section 102, in addition to the funds otherwise made available in this subsection, the following amounts are made available: (1) an additional $36,000,000, to remain available until September 30, 1988, is hereby appropriated for the National Aeronautics and Space Administration, "Research and development"; and (2) an additional $2,398,000,000, to remain available until expended, is hereby appropriated for the National Aeronautics and Space Administration, "Space flight, control and data communications", including (a) $2,100,000,000 for orbiter production only, which amount shall not become available for obligation until August 1, 1987, and (b) $265,000,000 for space shuttle operations, which amount, together with $266,000,000 otherwise made available for this account by this subsection (or by enactment into law of the above named Act) shall not become available for obligation until January 15, 1987.

$53,577,802,700 *(Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987)*

36,000,000

2,398,000,000

[*Total, National Aeronautics and Space Administration, $2,434,000,000.*]

(h) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act.

(Department of the Interior and Related Agencies Appropriations Act, 1987)

AN ACT

Making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $483,610,000, of which $83,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, and $5,000,000 for insect and disease control projects, including grasshoppers, shall remain available until expended: *Provided*, That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regula-

483,610,000

tions concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: *Provided further*, That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: *Provided further*, That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: *Provided further*, That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $2,800,000, to remain available until expended. $2,800,000

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses. 105,000,000

LAND ACQUISITION

(INCLUDING RESCISSION)

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $6,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended. 6,220,000

Of the funds appropriated under this head in Public Law 98-396 to carry out the provisions of Public Law 93-531, as amended, $3,200,000 are rescinded. −3,200,000 *(rescission)*

[*Total, land acquisition (net), $3,020,000.*]

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $54,524,000, to remain available until expended: 54,524,000 *Provided*, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to

50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $9,253,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided*, That not to exceed $600,000 shall be available for administrative expenses.

$9,253,000 *(indefinite)*

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

5,195,000 *(indefinite)*

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

100,000 *(indefinite)*

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $10,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

[*Total, Bureau of Land Management (net), $663,502,000.*]

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $314,692,000 of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,411,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended. $314,692,000

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $26,513,000, to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g). 26,513,000

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), $7,000,000, to remain available until expended. 7,000,000

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $42,425,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That $3,000,000 for Bayou Sauvage NWR shall be available subject to authorization. 42,425,000

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000. 5,645,000

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 72 passenger motor vehicles for replacement only (including 72 for police-type use); purchase of 1 new aircraft for replacement only; not to exceed $300,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; construction of permanent improvements for use as a forensics laboratory, and structures appurtenant thereto, on a site leased by the Service; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

[*Total, United States Fish and Wildlife Service, $396,275,000.*]

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $408,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $649,613,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451) and $15,158,000 to be derived from unappropriated balances in the National Park Service "Planning, development and operation of recreation facilities" account: *Provided*, That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced: *Provided further*, That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further*, That to advance the mission of the National Park Service, for a period of time not to extend beyond fiscal year 1987, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as

$657,613,000

defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): *Provided further,* That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1987: *Provided further,* That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): *Provided further,* That all funds derived from National Park Service entrance fees during fiscal year 1987 and all funds collected during fiscal year 1987 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-6a), shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: *Provided further,* That where entrance fees are established on a per person basis, children 12 and under shall be exempt from the fees: *Provided further,* That if permanent statutory language is enacted during fiscal year 1987 establishing National Park System entrance fees, the provisions of that language shall supersede the fee provisions contained in this Act: *Provided further,* That of the funds provided under this head, $15,000,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be provided to all units of the System based on each unit's proportion of park operating expenses, and 50 percent shall be provided to units with entrance fees based on each collecting unit's proportion of total entrance fee collections: *Provided further,* That the following may be cited as the "Steamtown National Historic Site Act of 1986":

– $54,000,000 *(park receipts transfer to general fund, indefinite)*

SECTION 1. DESIGNATION AS NATIONAL HISTORIC SITE.

The property known as Steamtown, consisting of the land, historic roundhouse, switchyard, and associated buildings, track and equipment, and located on approximately 40 acres in Scranton, Pennsylvania, is hereby designated as the Steamtown National Historic Site (hereafter in this Act referred to as "the Site"). The Site is generally depicted on the map entitled "Steamtown National Historic Site", numbered STTO-80,000 and dated September 1986. A copy of the map shall be on file and available for inspection in the offices of the National Park Service in Washington, D.C., and in appropriate regional and local offices.

SEC. 2. MANAGEMENT OF SITE.

(a) PREPARATION OF MANAGEMENT PLAN.—The Secretary shall prepare a comprehensive management plan for the Site, which shall include all of the elements required for general management plans under section 12 of the Act entitled "An Act to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" approved August 18, 1970 (U.S.C. 1a-7), and shall be submitted to the Congress no later than September 30, 1987.

(b) ADMINISTRATION OF SITE.—(1) The Secretary shall administer the Site through cooperative agreements and grant agreements, as appropriate, with the owner or owners of the property. The Secretary may provide financial and technical assistance in planning interpretation, maintenance, preservation, and appropriate public use of the Site and associated rolling stock in order to further public understanding and appreciation of the development of steam locomotives in the region.

(2) The Secretary of the Interior may acquire the Site, and all or part of the associated rolling stock, by donation or with donated funds and may begin to take such actions as are called for in the management plan. Upon acquisition pursuant to this paragraph, the Site and any acquired associated rolling stock shall thereafter be administered by the Secretary in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes" approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 3. ADVISORY COMMITTEE.

The Secretary is authorized to establish a Steamtown Advisory Committee and appoint up to ten members, who shall serve at no cost to the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $20,000,000 for the administration of the Steamtown National Historic Site and for assistance to the owner thereof pursuant to the agreements referred to in section 2(b).

SEC. 5. APPROPRIATIONS.

For expenses necessary to carry out the provisions of this Act, $8,000,000, to remain available until expended.

[*Total, operation of the National Park System (net), $603,613,000.*]

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $10,628,000. $10,628,000

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $24,250,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1988: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation. 24,250,000

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $88,095,000, to remain available until expended, of 88,095,000 which $8,500,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $2,700,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: *Provided*, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $10,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended: *Provided further*, That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $2,500,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, subject to the availability of funds for an additional lane on the Theodore Roosevelt Bridge.

$10,000,000 (liquidation of contract authority)

2,500,000 (liquidation of contract authority)

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $87,220,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, including $2,270,000 to administer the State Assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $893,000 shall be available in 1987 for administrative expenses of the State grant program. 87,220,000

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,771,000. 4,771,000

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000. 250,000

JEFFERSON NATIONAL EXPANSION MEMORIAL COMMISSION

For operation of the Jefferson National Expansion Memorial Commission, $75,000. 75,000

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 400 passenger motor vehicles, of which 348 shall be for replacement only, including not to exceed 300 for police-type use and 20 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided*, That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and

Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That the Secretary of the Interior shall begin processing claims of the licensees of the American Revolution Bicentennial Administration within 30 days of enactment of this Act, and that licensees who filed claims with the Department between July 1984, and January 1985, or who filed for relief from the Department under the Federal Tort Claims Act on December 31, 1979, or who were mentioned in the December 30, 1985, Opinion of the Comptroller General shall be eligible claimants: *Provided further,* That the Secretary shall process such claims consistent with the process employed in the Amerecord, Inc. test case which was settled on August 20, 1983, and other applicable legal principles to determine whether any or all of such claimants ought to be awarded equitable compensation by the Congress, and, if so, in what amount: *Provided further,* That these claims will be processed to completion in a judicious and expedient manner not to exceed one year from the date of enactment of this Act: *Provided further,* That none of the funds made available by this Act may be used to plan or implement the closure of the Pacific Northwest Regional Office in Seattle, Washington: *Provided further,* That notwithstanding any other provision of law, hereafter funds received by the National Park Service as reimbursement for the cost of providing security, law enforcement, interpretive, and other services with respect to the operation of facilities at the Jefferson National Expansion Memorial National Historic Site shall be credited to the appropriation bearing the cost of providing such services.

[*Total, National Park Service (net), $818,902,000.*]

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United

States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $418,665,000: *Provided,* That $52,835,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That in fiscal year 1987 and thereafter the Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided further,* That, heretofore and hereafter, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the Geological Survey may, notwithstanding any other provision of law, record obligations against accounts receivable from any such entities and shall credit amounts received from such entities to this appropriation. $418,665,000

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 14 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $160,697,000, of which not less than $44,904,000 shall be available for royalty management activities including general administration: *Provided*, That not less than $11,059,000 is to be used for the mineral revenue compliance audit program: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That in fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account. $160,697,000

Bureau of Mines

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $138,162,000, of which $83,130,000 shall remain available until expended. 138,162,000

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

Office of Surface Mining Reclamation and Enforcement

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $100,003,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1987. 100,003,000

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, to remain available until expended, $203,720,000, to be derived from receipts of the Abandoned Mine Reclamation Fund: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further*, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further*, That notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987: *Provided further*, That the Secretary of the Interior may deny fifty percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and the Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further*, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87.

$203,720,000 *(definite, trust fund)*

[*Total, Office of Surface Mining Reclamation and Enforcement, $303,723,000.*]

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian

Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $911,182,000, of which not to $911,182,000 exceed $55,668,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1988, and $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190 shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $2,431,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act and—

(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

(2) until the earlier of—

(A) October 1, 1987, or

(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

(3) until the earlier of—

(A) October 1, 1987, or

(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this Act: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended: *Provided further,* That the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) shall be distributed on the same basis as such funds were distributed in fiscal year 1986: *Provided further,* That before initiating any action to close the Phoenix Indian School but no later than February 1, 1987, the Secretary shall submit to the Congress a report (1) on the school as required under section 1121(g)(3) of Public Law 95-561, as amended, including any warranted recommendations for the establishment of special programs at existing schools or the establishment of a new school or schools to be operated either by the Bureau of Indian Affairs or by a public school district to meet the needs of students from Arizona who are attending or might otherwise have attended the Phoenix Indian School; (2) on the Secretary's recommendation for the disposition of the property (including real property, supplies, and equipment) used for the school which recommendations may include the donation (with any restrictions on use and subject to a reverter for specified reasons the Secretary deems necessary or desirable) of some or all of the property to the State of Arizona, one or more local or tribal governments, or another Federal agency or the sale or exchange of some or all of the property at fair market value and a recommendation for the use of any cash received for a sale or to equalize values in an exchange; and (3) documentation of the Secretary's efforts to consult with the affected tribes and to offer assistance to the tribes in planning for future educational requirements for those currently eligible to attend the Phoenix Indian School, including those students from the Phoenix area attending school in California: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until action by the Congress affirming or modifying the recommendations of the Secretary.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $76,101,000, to remain available until expended: *Provided,* That $1,225,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, water production and administration related to the relocation of Navajo families. $76,101,000

ROAD CONSTRUCTION

Of the funds otherwise available to the State of Oklahoma from the Federal Highway Trust Fund, $10,000,000 shall be available for construction of the Honobia Indian Road: *Provided,* That the matching requirement is hereby waived with respect to funds spent on the Honobia Road: *Provided further,* That not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

WHITE EARTH TRUST FUND

For deposit into the White Earth Economic Development and Tribal Government Fund established pursuant to section 12 of Public Law 99-264, to be held in trust for the benefit of the White Earth Band of Chippewa Indians, $6,600,000. $6,600,000

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $1,000,000 from tribal funds not otherwise available for expenditure. 1,000,000

REVOLVING FUND FOR LOANS

During fiscal year 1987, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed $16,320,000. *16,320,000 (limitation on direct loans)*

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $2,452,000, to remain available until expended: *Provided*, That during fiscal year 1987, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974 may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available. 2,452,000

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits; and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

[*Total, Bureau of Indian Affairs, $997,335,000.*]

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $78,224,000, of which (1) $75,501,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) 78,224,000

$2,723,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions, $67,387,000, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That notwithstanding the proviso under "Trust Territory of the Pacific Islands" in Public Law 97-257 making funds available for the relocation and resettlement of the Bikini people in the Marshall Islands, such funds shall be available for relocation and resettlement of the Bikini people to any location. $67,387,000

COMPACT OF FREE ASSOCIATION

For the Enjebi Community Trust Fund, as authorized by Public Law 99-239, $2,250,000: *Provided*, That notwithstanding any other provision of law, the funds made available under this head in Public Law 99-349 shall remain available for obligation until expended: *Provided further*, That notwithstanding any other provision of law, for purposes of economic assistance as provided pursuant to the Compacts of Free Association, the effective date of the Compacts shall be October 1, 1986, except that the effective date for commencing the Kwajalein use and impact payments pursuant to sections 211(a)(1) and 213(a) of Public Law 99-239 shall be October 1, 1985: *Provided further*, That the $60,719,000 made available in fiscal year 1986 for the Compacts pursuant to Public Law 99-349 from the "Trust Territory of the Pacific Islands" appropriation shall remain available until expended for the Trust Territory of the Pacific Islands: *Provided further*, That upon the effective date determined by the President for implementing the Compacts, $60,719,000 of the 2,250,000

amount made available for fiscal year 1987 under the "Trust Territory of the Pacific Islands" appropriation pursuant to this Act shall be considered to have been made available and expended for the "Compact of Free Association" appropriation as of October 1, 1986.

[*Total, Territorial Affairs, $147,861,000.*]

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, including $1,586,000 for the Immediate Office of the Secretary, $42,816,000, of which not to exceed $10,000 may be for official reception and representation expenses. $42,816,000

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $20,880,000. 20,880,000

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $16,300,000. 16,300,000

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $684,000. 684,000

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 12 additional aircraft, 10 of which shall be for replacement only: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

[*Total. Departmental Offices, $80,680,000.*]

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

SEC. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 109. Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 110. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 111. (a) The Secretary of the Interior may consider and accept, as part of the Outer Continental Shelf oil and gas leasing program for 1987 to 1992, any recommendation included in any proposal submitted to him with respect to lease sales on the California Outer Continental Shelf by the co-chairmen of the Congressional panel established pursuant to Public Law 99-190 or by the Governor of California on May 7, 1986. The major components of those proposals shall be examined in the final environmental impact statement for the program. Consideration or acceptance of any such recommendation shall not require the preparation of a revised or supplemental draft environmental impact statement.

(b) The Secretary shall submit a copy of the draft proposed final leasing program for offshore California to the cochairmen of the negotiating group referred to in subsection (a) who shall have a period of 30 days in which to review such program and provide their comments and the comments of the negotiating group on it to the Secretary prior to its submission to the President and the Congress. When submitting the proposed final leasing program to the President and the Congress in accordance with section 18(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(d)), such submission shall indicate in detail why any specific portion of the proposals referred to in subsection (a) of this section was not accepted.

(c) Prior to the approval of the Final Program, referenced in subsection (a), the Secretary may conduct prelease activities for proposed California OCS Lease Sales 95, 91, and 119 and may make changes in those sales on the basis of comments submitted by the Congressional negotiating group or others, except that the Secretary may not issue a: (1) call for information and nominations for Sale 95 prior to March 1, 1987, and no draft environmental impact statement shall be published for Sale 91 sooner than 90 days after the Secretary's submission of the draft of the proposed Final Five Year Program to the members of the Congressional panel, and (2) final notice of lease sale for Lease Sale 91 prior to January 1, 1989.

(d) The members of Congress designated under Sec. 111 of Public Law 99-190 (99 Stat. 1243) are hereby authorized to continue as the Congressional negotiating group and to negotiate with the Department of the Interior, to provide the Secretary of the Interior with the appropriate range of advice, including proposals, and to review and comment on proposals by the Department of the Interior with respect to future oil and gas leasing and protection of lands on the California Outer Continental Shelf.

SEC. 112. Notwithstanding any other law, the Secretary of the Interior shall convey without reimbursement to the State of Montana no later than December 31, 1986, all of the right, including all water rights, title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon.

SEC. 113. The Secretary of the Interior is directed to designate the Laurel Highlands National Recreational Trail, as designated by the Secretary of the Interior pursuant to section 4 of the National Trails System Act, as part of the Potomac Heritage Trail, as requested by the State of Pennsylvania in its April 1984 application, subject to the provisions of paragraph (11) of section 5(a) of the National Trails System Act, as amended.

SEC. 114. (a) In order to provide for needed facilities for visitors to Fort Sumter National Monument, including a tour boat dock and associated facilities, and an interpretive and museum facility in cooperation with the State of South Carolina and the city of Charleston, the Secretary of the Interior (in this section referred to as the "Secretary"), is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange, not to exceed 8.91 acres of lands, including submerged lands, and interests in lands, within the area generally depicted on the map entitled "Dockside II, Proposed Site, Tourboat Facility", which map shall be on file and available for public inspection in the office of the National Park Service. When acquired, lands, including submerged lands and interests in lands, depicted on such map shall be administered by the Secretary as a part of Fort Sumter National Monument, subject to the laws and regulations applicable to such monument, and subject to the provisions of this section.

(b)(1) With respect to the lands, including submerged lands, and interests in lands acquired pursuant to section (a), the Secretary is authorized—

(A) to convey, notwithstanding the provisions of section 5 of Public Law 90-400 (82 Stat. 356) and subject to the provisions of subsection (2), a leasehold interest in not to exceed one and a half acres to the State of South Carolina or the city of Charleston or either of them for development by either of them or their agents or lessees of a marine museum and associated administrative facilities;

(B) to grant covenants or easements for ingress and egress to the State of South Carolina, the city of Charleston, and to other parties as the Secretary may deem necessary to facilitate public use; and

(C) to enter into cooperative agreements with the State of South Carolina, the city of Charleston, and other parties as the Secretary may deem necessary, pursuant to which construction, maintenance, and use of buildings, utilities, parking facilities, and other improvements may be shared among the parties to the agreement.

(2) Any conveyance made pursuant to subsection (b)(1)(A) and any renewal thereof may be for a period of up to 50 years, and may include the option to purchase the property in fee by the lessee within the first 10 years, upon payment by the lessee of the cost of the property to the United States plus interest based on the average yield of United States Treasury notes with maturities of one year. The Secretary may convey title to the property in fee in the event such option to purchase is exercised, subject to the condition that the property is used for a public marine museum and associated administrative facilities. Notwithstanding any other provision of law, any leasehold interest conveyed pursuant to subsection (b)(1)(A) shall be conveyed without monetary consideration. The proceeds from any conveyance of property in fee pursuant to subsection (b)(1)(A) shall be deposited in the Land and Water Conservation Fund in the Treasury of the United States.

(c) Section 117 of Public Law 96-199 (94 Stat. 71) is hereby repealed.

(d)(1) Notwithstanding any other provision of law, sums heretofore appropriated but not, on the date of enactment of this joint resolution, obligated for construction of a tourboat facility at the Broad Street site, and for the acquisition and construction of the Fleet landing site for Fort Sumter National Monument, which was authorized by section 117 of Public Law 96-199 (94 Stat. 71) are hereby made available for obligation for the acquisition of the lands including submerged lands, and interests in lands identified in section (a) and for construction of necessary facilities thereon, and to the extent that sums heretofore appropriated for land acquisition of the Fleet landing site are not sufficient to cover the cost of acquisition of the properties identified in section (a), sums heretofore appropriated for construction of facilities at the Broad Street site and the Fleet landing site may be obligated for the purposes of acquisition as authorized in section (a).

(2) In addition to the sums made available under subsection (d)(1), there is authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(e) The Secretary of the Interior shall transfer administrative jurisdiction over the Federal property, consisting of approximately 1 acre, known as the Broad Street site, to the Secretary of the Department in which the Coast Guard is operating, who shall transfer to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes, administrative jurisdiction over the Federal property, consisting of approximately 1 acre located near Fort Moultrie on Sullivan's Island for purposes of a maintenance workshop, storage, and seasonal housing in connection with the administration and protection of the Fort Sumter National Monument.

SEC. 115. (1) The primary term of any geothermal lease in effect as of July 27, 1984, issued pursuant to the Geothermal Act of 1970 (Public Law 91-581, 84 Stat. 1566, 30 U.S.C. 1001-1025) is hereby extended to December 31, 1988, if the Secretary of the Interior finds that—

(a) a bona fide sale of the geothermal resource, from a well capable of production, for delivery to or utilization by a facility or facilities, has not been completed (1) due to administrative delays by government entities, beyond the control of the lessee, or (2) such sale would be uneconomic;

(b) substantial investment in the development of or for the benefit of the lease has been made; and

(c) the lease would otherwise expire prior to December 31, 1988.

(2)(a) The Secretary of the Interior (hereinafter in this section referred to as "the Secretary" shall publish for public comment in the Federal Register within 120 days after the date of enactment of this section a proposed list of significant thermal features within the following units of the National Park System:

Mount Rainier National Park;
Lassen Volcanic National Park;
Yellowstone National Park;
Bering Land Bridge National Preserve;
Gates of the Arctic National Park and Preserve;
Yukon-Charley Rivers National Preserve;
Katmai National Park;
Aniakchak National Monument and Preserve;
Wrangell-St. Elias National Park and Preserve;
Glacier Bay National Park and Preserve;
Denali National Park and Preserve;
Lake Clark National Park and Preserve;
Hot Springs National Park;
Sequoia National Park;
Hawaii Volcanoes National Park;
Lake Mead National Recreation Area;
Big Bend National Park;
Olympic National Park;
Grand Teton National Park;
John D. Rockefeller, Jr. Memorial Parkway;
Haleakala National Park; and
Crater Lake National Park.

The Secretary shall include with such list the basis for his determination with respect to each thermal feature on the list. Based on public comment on such list, the Secretary is authorized to make additions to or deletions from the list. Not later than the 60th day from the date on which the proposed list was published in the Federal Register, the Secretary shall transmit the list to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives together with copies of all public comments which he has received and indicating any additions to or deletions from the list with a statement of the reasons therefor and the basis for inclusion of each thermal feature on the list. The Secretary shall consider the following criteria in determining the significance of thermal features:

(1) size, extent, and uniqueness;

(2) scientific and geologic significance;

(3) the extent to which such features remain in a natural, undisturbed condition; and

(4) significance of thermal features to the authorized purposes for which the National Park System unit was created.

The Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act of 1970 (Public Law 91-581, 84 Stat. 1566), as amended, until such time as the Secretary has transmitted the list to the Committees of Congress as provided in this section.

(b) The Secretary shall maintain a monitoring program for those significant thermal features listed pursuant to subsection (a) of this section.

(c) Upon receipt of an application for a geothermal lease the Secretary shall determine on the basis of scientific evidence if exploration, development, or utilization of the lands subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section. Such determination shall be subject to notice and public comment. If the Secretary determines on the basis of scientific evidence that the exploration, development, or utilization of the land subject to the geothermal lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section, the Secretary shall not issue such geothermal lease. In addition, the Secretary shall withdraw from leasing under the Geothermal Steam Act of 1970, as amended, those lands, or portion thereof, subject to the application for geothermal lease, the exploration, development, or utilization of which is reasonably likely to result, based on the Secretary's determination, in a significant adverse effect on a significant thermal feature listed pursuant to subsection (a) of this section.

(d) With respect to all geothermal leases issued after the date of enactment of this section the Secretary shall include stipulations in leases necessary to protect significant thermal features listed pursuant to subsection (a) of this section where a determination is made based on scientific evidence that the exploration, development, or utilization of the lands subject to the lease is reasonably likely to adversely affect such significant features. Such stipulations shall include, but are not limited to:

(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

(2) requiring the lessee to report annually to the Secretary on its activities;

(3) requiring the lessee to continuously monitor geothermal production and injection wells; and

(4) requiring the lessee to suspend activity, temporarily or permanently, on the lease if the Secretary determines that ongoing exploration, development, or utilization activities are having a significant adverse effect on significant thermal features listed pursuant to subsection (a) of this section until such time as the significant adverse effect is eliminated.

(e) The Secretary of Agriculture shall consider the effects on significant thermal features of those units of the National Park System identified in subsection (a) of this section in determining whether to consent to leasing under the Geothermal Steam Act of 1970, as amended, on national forest or other lands administered by the Department of Agriculture available for leasing under the Geothermal Steam Act of 1970, as amended, including public, withdrawn, and acquired lands.

(f) Nothing contained in this section shall affect the ban on leasing under the Geothermal Steam Act of 1970, as amended, with respect to the Island Park Known Geothermal Resources Area, as provided for in Public Law 98-473 (98 Stat. 1837) and Public Law 99-190 (99 Stat. 1267).

(g) Except as provided herein, nothing contained in this section shall affect or modify the authorities or responsibilities of the Secretary under the Geothermal Steam Act of 1970, as amended, or any other provision of law.

(h) The provisions of this section shall remain in effect until Congress determines otherwise.

SEC. 116. (a) Section 1102(a) of the National Parks and Recreation Act of 1978 (Public Law 95-625) is amended by inserting the following after the second sentence: "In addition, the Secretary may acquire by any of the foregoing methods not to exceed ten acres outside the boundaries of the national river for an administrative headquarters site, and funds appropriated for land acquisition shall be available for the acquisition of the administrative headquarters site.".

(b) Section 1112 of Public Law 95-625 is amended by striking "$500,000" and inserting "$3,000,000".

SEC. 117. (1) The Women in Military Service for America Memorial Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor women who have served in the Armed Forces of the United States. Such memorial shall be established in accordance with the provisions of H.R. 4378. as approved by the Senate on September 10, 1986 (S. Rpt. 99-421).

(2) The organization or organizations approved by the Secretary shall establish the memorial with non-Federal funds.

SEC. 118. (1) The Black Revolutionary War Patriots Foundation is authorized to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom. Such memorial shall be established in accordance with the provisions of H.R. 4378, as approved by the House of Representatives on September 29, 1986.

(2) The Black Revolutionary War Patriots Foundation shall establish the memorial with non-Federal funds.

SEC. 119. The Secretary of the Interior shall designate the visitor center to be associated with the headquarters of the Illinois and Michigan Canal National Heritage Corridor as the "George M. O'Brien Visitor Center" in recognition of the leadership and contributions of Representative George M. O'Brien with respect to the creation and establishment of this national heritage corridor.

SEC. 120. Notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Berkeley, Illinois, assisted under project No. 17-00180, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value and reasonably equivalent use and location are met.

SEC. 121. None of the funds provided by this Act shall be expended by the Secretary of the Interior to promulgate final regulations concerning paleontological research on Federal lands until the Secretary has received the National Academy of Sciences' report concerning the permitting and post-permitting regulations concerning paleontological research and until the Secretary has, within 30 days, submitted a report to the appropriate committees of the Congress comparing the National Academy of Sciences' report with the proposed regulations of the Department of the Interior.

SEC. 122. Subsection (b) of the first section of the Act of August 9, 1955, as amended (25 U.S.C. 415(b)) is further amended—

(1) by striking "or" immediately before "(2)"; and

(2) by inserting immediately before the period at the end thereof the following: ", or (3) if the term does not exceed seventy-five years (including options to renew), and the lease is executed under tribal regulations approved by the Secretary under this clause (3)".

SEC. 123. Section 515(b)(10)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 is amended by inserting after "qualified registered engineer" the following: "or a qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans".

SEC. 124. Notwithstanding any other provision of law, no funds appropriated by this Act shall be available for the implementation, by the Secretary of the Interior or the Attorney General or any other officer acting on behalf of the United States, of the "Agreement to Settle Pending Litigation Between the United States and the Owners of Certain Oil Shale Mining Claims in Colorado", dated August 4, 1986, or for the patenting of any other oil shale placer claims located prior to passage of the 1920 Mineral Leasing Act, for a period of 180 days from the date of enactment of this provision, in order to provide a period for Congressional review of this agreement: *Provided*, That the provisions of this section affecting the aforesaid settlement agreement shall be effective only if the United States Court of Appeals for the Tenth Circuit and the United States District Court for the District of Colorado approve a stay in the cases affected by such settlement agreement for 180 days and the parties to such agreement agree to continue to be bound by such agreement for the 180-day period: *Provided further*, That the Attorney General of the United States and the Secretary of the Interior are directed to immediately and in good faith seek concurrence of all parties to the agreement to continue such agreement for 180 days and to request such courts to issue stays for such period.

[*Total, title I, Department of the Interior:*

[*New budget (obligational) authority (net)*	*$4,125,802,000.*]
[*Appropriations, definite*	*4,168,454,000.*]
[*Appropriations, indefinite*	*−39,452,000.*]
[*Rescission*	*−3,200,000.*]
[*Liquidation of contract authority*	*12,500,000.*]
[*Limitation on direct loans*	*16,320,000.*]

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $128,882,000, of which $6,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

$128,882,000

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $58,946,000, to remain available until expended, to carry out activities authorized in Public Law 95-313: *Provided*, That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

$58,946,000

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for repayment of advances made in the preceding fiscal year pursuant to 16 U.S.C. 556d for forest fire protection and emergency rehabilitation of National Forest System lands, and including administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,158,294,000, of which $263,323,000 for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1988.

1,158,294,000

The Forest Service is to continue to complete as expeditiously as possible development of land and resource management plans to meet the requirements of the National Forest Management Act of 1976 (NFMA). Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service may continue the management of units of the National Forest System under existing land and resource management plans pending the completion of plans developed in accordance with the Act. Nothing shall limit judicial review of particular activities on management units of the National Forest System: *Provided*, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $261,436,000, to remain available until expended, of which $25,632,000 is for construction and acquisition of buildings and other facilities; and $236,104,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1987 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That the Forest Service shall achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost by a combination of the following two actions: (1) the application of road construction standards used to construct or reconstruct Forest Service timber roads, purchaser credit roads, or purchaser elect roads, and (2) reducing the direct personnel cost of designing and constructing timber roads to these standards: *Provided further*, That the Forest Service shall take administrative cost saving actions, including reductions in indirect personnel, overhead charges, and productivity improvements, in fiscal year 1987 in a manner so as to achieve a 5 per centum reduction in the average cost per timber road mile as compared to the adjusted fiscal year 1985 average cost: *Provided further*, That such actions shall be taken so as to achieve these 5 per centum reductions in each Forest Service region.

261,736,000

−86,815,000 (timber receipts transfer to general fund, indefinite)

Pursuant to section (b)(2), the Act of December 23, 1980, Public Law 96-581 (94 Stat. 3372), not to exceed $300,000 from the sale of 18.13 acres to the Flagstaff Medical Regional Center, Flagstaff, Arizona, are hereby appropriated and made available, until expended, to the Forest Service for the specific purpose of contract administration and overruns resulting from the construction of administrative improvements at the Mt. Elden Work Center, Flagstaff, Arizona: *Provided*, That the Secretary of Agriculture shall ensure that outlays associated with such action shall not cause the total outlays during fiscal year 1987 from Forest Service land acquisition and construction activities and construction activities in region 3 (including Arizona and New Mexico) to exceed the total that otherwise would have occurred as a result of enactment of this or previous appropriations Acts.

There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $9,915,000 to be transferred to the Forest Service for road construction to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided*, That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: *Provided further*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any State other than the State of Washington.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $49,236,000, to be derived from the Land and Water Conservation Fund, and $3,000,000 for acquisition of land and interests therein in the Columbia River Gorge, Oregon and Washington, as depicted on a map entitled "Columbia Gorge Acquisitions—1986" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

$52,236,000

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache and Uinta National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

966,000

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

895,000
(indefinite)

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in Na-

3,800,000
(indefinite)

tional Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act. $90,000

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 245 passenger motor vehicles of which eight will be used primarily for law enforcement purposes and of which 235 shall be for replacement only, of which acquisition of 148 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 58 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Notwithstanding any other provision of law, the Secretary of Agriculture is hereafter authorized to use from any receipts from the sale of timber a sum equal to the cost of construction of roads under the purchaser election program as described and authorized in section 14(i) of the National Forest Management Act of 1976.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, and technical information and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided*, That no less than $26,000,000 shall be made available to the Forest Service for obligation in fiscal year 1987 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

The Forest Service is authorized and directed to negotiate, within 90 days after the enactment of this Act, settlement of claims against the United States resulting from a forest fire in the Black Hills National Forest: *Provided*, That notwithstanding any other provision of law, the Secretary of the Treasury is authorized and directed to pay the amount of the settlement from the Claims, Judgments, and Relief Act Fund (Public Law 95-26).

In order to provide for more comprehensive and effective management, the exterior boundary of the Gifford Pinchot National Forest in the State of Washington is hereby modified as generally depicted on a map entitled "Boundary Modification, Gifford Pinchot National Forest", dated August 1986. Such map and legal description of the boundary modification of said National Forest shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture and in appropriate field offices of that agency. This boundary modification shall not affect valid existing rights or interests in existing land use authorizations.

No more than $500,000 made available to the Forest Service for obligation in fiscal year 1987 shall be expended to support Washington office staff in the development of the RPA: *Provided*, That this shall not reduce funds available for the development of forest plans pursuant to the National Forest Management Act of 1976.

[*Total, Department of Agriculture, $1,665,845,000.*]

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The Secretary of Energy pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577), shall—

(1) no later than thirty days after the date of the enactment of this Act, publish in the Federal Register a notice soliciting statements of interest in, and informational proposals for, projects meeting the cost-sharing criteria contained under this head in Public Law 99-190 and employing emerging clean coal technologies which are capable of retrofitting, repowering, or

modernizing existing facilities, which statements and informational proposals are to be submitted to the Secretary within sixty days after the publication of such notice; and

(2) no later than March 6, 1987, submit to Congress a summary report of statements of interest and informational proposals received and no later than one hundred and twenty days after the receipt of such statements and proposals submit to Congress a report that analyzes the information contained in such statements of interest and informational proposals and assesses the potential usefulness and commercial viability of each emerging clean coal technology for which a statement of interest or informational proposal has been received.

Notwithstanding guidance provided by the Department in the February 17, 1986 Clean Coal Technology Program Opportunity Notice, funds expended by a private sector participant during the period of Congressional review or approval of the projects selected by the Department for agreements may be eligible for cost-sharing, as appropriate, commencing immediately after a full and comprehensive report on the project in question is submitted to the Congress for a 30-day review pursuant to the Administrative Provisions of the Department of Energy in this Act: *Provided*, That such cost-sharing may only be reimbursed after the Congress has approved the project or the 30-day review period has elapsed and the agreement executed by the Department: *Provided further*, That in no case shall funds expended by the private sector during the review period be eligible for cost-sharing reimbursement of any project disapproved by the Congress.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $295,866,000, to remain available until expended, of which $221,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), $411,000 to be derived by transfer from unobligated balances in the "Permitting and enforcement" account of the Federal Inspector for the Alaska Gas Pipeline, and $2,074,000 to be derived by transfer from unobligated balances in the "Fossil energy construction" account, and in addition, $437,000 to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

$295,866,000

2,922,000
(by transfer)

Of the funds herein provided, $26,500,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further*, That 20 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1987, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided* *further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserves activities, including the purchase of not to exceed 1 passenger motor vehicle, for replacement only, $122,177,000, to remain available until expended. $122,177,000

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $280,129,000, to remain available until expended, of which $10,000,000 shall be available for a grant for an energy demonstration and research facility at Tufts University when authorized by an Act of Congress: *Provided*, That award of such grant may be made only upon approval of an appropriate technical review panel convened by the Department of Energy for the specific purpose of reviewing such grant application and subject to conditions, if any, contained in legislation authorizing such project, and of which $112,450,000 for the Weatherization Assistance Program authorized by Part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6861 et seq.) and the Institutional Conservation Program authorized by Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371 et seq.) shall be available effective March 1, 1987, only in such sums (up to a total of $112,450,000) as are equal to the difference between $200,000,000 and the excess amount for fiscal year 1987 disbursed by the Secretary of Energy for use in energy conservation programs under the provisions of section 3003(d) of subtitle A of title III of the conference agreement on H.R. 5300, the Omnibus Budget Reconciliation Act of 1986, or equivalent legislation enacted into law by March 1, 1987: *Provided further*, That if no such legislation is enacted into law by March 1, 1987, effective such date, such sums ($112,450,000) shall be immediately available to be derived from amounts held administratively in escrow by the Secretary of Energy pending restitution for actual or alleged petroleum product violations under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder): *Provided further*, That $2,000,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further*, That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development 280,129,000 funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $23,400,000. $23,400,000

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,044,000. 6,044,000

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $147,433,000, to remain available until expended. 147,433,000

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $60,301,000. 60,301,000

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

[*Total, Department of Energy, $935,350,000.*]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and section 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $841,809,000: *Provided*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1988; and $10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund (hereinafter referred to as the "Fund"). Hereafter, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. No part of the Fund or its administration shall be subject to contract or grant under the Indian Self-Determination and Education Assistance Act (Public Law 93-638). There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act (42 U.S.C. 2651 et seq.), which shall become available for obligation upon receipt and which shall remain available for obligation until expended. The Fund shall not be used to pay for health services provided to eligible Indians to the extent that alternate Federal, State, local, or private insurance resources for payment: (1) are available and accessible to the beneficiary; or (2) would be available and accessible if the beneficiary were to apply for them; or (3) would be available and accessible to other citizens similarly situated under Federal, State, or local law or regulation or private insurance program notwithstanding Indian Health Service eligibility or residency on or off a Federal Indian reservation. Funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1988, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, $841,809,000

That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1988.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $65,555,000, to remain available until expended. $65,555,000

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further,* That hereafter the Indian Health Service may seek subrogation of claims including but not limited to auto accident claims, including no-fault claims, personal injury, disease, or disability claims, and worker's compensation claims, the proceeds of which shall be credited to the funds established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further,* That notwithstanding any other provision of law or regulation, for purposes of acquiring sites for new hospital facilities in Anchorage, Alaska, and in Kotzebue, Alaska, the Secretary of Health and Human Services may exchange any or all interests in any land administered by the Secretary in Alaska for any or all interests in any land of the State of Alaska, any political subdivision of the State, or any corporation, including the University of Alaska and may receive money if necessary to equalize the exchange: *Provided further,* That any such receipts shall be credited to the Indian Health facilities appropriation and be used to offset the cost of construction of these two facilities.

[*Total, Department of Health and Human Services, $907,364,000.*]

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $64,036,000 of which $47,200,000 shall be for part A and $14,568,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1988: *Provided further,* That funds appropriated for fiscal year 1987 under this or any other Act to carry out part A of title IV of Public Law 92-318 (Indian Education Act) shall be distributed under the same proof of eligibility requirements as applied in fiscal year 1986. $64,036,000

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $22,335,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10: *Provided further,* That for certified eligible households for whom a benefit level has not been determined, such level shall hereafter be determined consistent with the interpretation of 25 U.S.C. 640d-14 issued by the Solicitor of the Department of the Interior on August 25, 1986. 22,335,000

The Commission shall review the eligibility of all households certified as eligible who have not received relocation benefits and shall decertify any household which was certified contrary to law or regulation: *Provided,* That those who are decertified are to be provided the opportunity to appeal that decision in accordance with 25 CFR 700.305.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $183,920,000, including such funds as may be necessary to support American overseas research centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations. $183,920,000

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $2,500,000, to remain available until expended. 2,500,000

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $12,975,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That notwithstanding any other provisions of law, the Secretary of the Smithsonian Institution is authorized to expend and/or transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $100,000 within available funds for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory. 12,975,000

CONSTRUCTION

For necessary expenses to construct, equip, and furnish the Center for African, Near Eastern, and Asian Cultures in the area south of the original Smithsonian Institution Building, and a research laboratory and conference facility at the Smithsonian Tropical Research Institute in Panama, $6,095,000, to remain available until expended. 6,095,000

[*Subtotal, Smithsonian Institution, $205,490,000.*]

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $34,607,000, of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended. $34,607,000

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds, and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $2,400,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price: *Provided further*, That unexpended balances of amounts previously appropriated for this purpose under the heading "Salaries and expenses, National Gallery of Art" may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted. 2,400,000

[*Subtotal, National Gallery of Art, $37,007,000.*]

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $3,322,000. 3,322,000

[*Total, Smithsonian Institution, $245,819,000.*]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $136,661,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act. 136,661,000

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,420,000, to remain available until September 30, 1988, to the National Endowment for the Arts, of which $20,000,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated. $28,420,000

[*Total, National Endowment for the Arts, $165,081,000.*]

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $109,990,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act. 109,990,000

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,500,000 to remain available until September 30, 1988, of which $16,500,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated. 28,500,000

[*Total, National Endowment for the Humanities, $138,490,000.*]

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $4,000,000: *Provided*, That Public Law 99-190 (99 Stat. 1261) is amended under this heading as follows: 4,000,000

(1) in the first paragraph, strike the words "which are engaged primarily in" and insert in lieu thereof "whose primary purpose is",

(2) in the second paragraph, strike the words "an annual operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,",

(3) in the fourth paragraph, strike the words "operating budget" and insert in lieu thereof "annual income, exclusive of Federal funds,", and

(4) in the fourth paragraph, strike the words "operating budgets" and insert in lieu thereof "annual income, exclusive of Federal funds,".

Institute of Museum Services

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,250,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1987. $21,250,000

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

[*Total, National Foundation on the Arts and Humanities, $328,821,000.*]

Commission of Fine Arts

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $450,000. 450,000

Advisory Council on Historic Preservation

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,533,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions. 1,533,000

National Capital Planning Commission

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,684,000. 2,684,000

Franklin Delano Roosevelt Memorial Commission

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $5,000, to remain available until September 30, 1988. 5,000

Pennsylvania Avenue Development Corporation

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,397,000 for operating and administrative expenses of the Corporation. 2,397,000

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,924,000, to remain available until expended. $3,924,000

[*Total, Pennsylvania Avenue Development Corporation, $6,321,000.*]

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, $2,040,000: *Provided*, That persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further*, That any persons so designated shall serve without cost to the Federal Government: *Provided further*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further*, That immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken. 2,040,000

[*Total, title II, Related Agencies:*

[*New budget (obligational) authority*	*$4,182,603,000.*]
[*Appropriations, definite*	*4,177,908,000.*]
[*Appropriations, indefinite*	*4,695,000.*]
[*Timber receipts transfer to general fund, indefinite*	*−86,815,000.*]
[*By transfer*	*2,922,000.*]

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96–560, section 103 of Public Law 96–550, section 5(d)(1) of Public Law 96–312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96–119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used tc evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1987 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. Not to exceed $500,000 appropriated or made available under this or any other Act may be used by the executive branch for soliciting proposals, preparing or reviewing studies or drafting proposals designed to aid in or achieve the transfer out of Federal ownership, management or control in whole or in part the facilities and functions of Naval Petroleum Reserve Numbered 1 (Elk Hills), located in Kern County, California, established by Executive order of the President, dated September 2, 1912, and Naval Petroleum Reserve Numbered 3 (Teapot Dome), located in Wyoming, established by Executive order of the President, dated April 30, 1915: *Provided*, That a report on any such studies shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30, 1987.

SEC. 315. Notwithstanding any other provision of law, funds appropriated by this or any other Act shall be available to the Trust Territory of the Pacific Islands on the same basis as such funds were available during fiscal year 1986 until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239).

SEC. 316. Notwithstanding any other provision of law, any lease for those Federal lands within the Gallatin and Flathead National Forests which were affected by case CV-82-42-BU of the United States District Court for the District of Montana, Butte Division, for which the Secretary of the Interior or the Secretary of Agriculture has directed or assented to the suspension of operations and production pursuant to section 39 of the Act of February 25, 1920 (30 U.S.C. 184) shall be excepted from the limits on aggregate acreage set out in that Act: *Provided*, That any person, association or corporation receiving relief under this section shall bring its aggregate acreage into compliance with the provisions of the Act of February 25, 1920 (30 U.S.C. 184) within six months from the date the suspension of operation and production ends.

SEC. 317. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation.

SEC. 318. Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96-294; 42 U.S.C. 8821) is amended by striking out "June 30, 1986" and inserting in lieu thereof "June 30, 1987".

SEC. 319. Section 12(b)(7)(iv) of the Act of January 2, 1976 (Public Law 94-204), as amended, is amended by striking the word "ten" and inserting in lieu thereof the word "seven".

SEC. 320. To assure that National Forest and Bureau of Land Management timber included in sales defaulted by the purchaser, or returned under the Federal Timber Contract Payment Modification Act (Public Law 98-478), is available for resale in a timely manner, such sales shall be subject only to one level of administrative appeal. This limitation shall not abridge the right of judicial review. Actions on such administrative appeals should be completed within 90 days of receipt of the notice of appeal. Sales that are reoffered shall be modified, including minor additions or deletions, as appropriate, to reduce adverse environmental impacts, pursuant to current land management plans and guidelines, and such modifications in themselves should not be construed to require the preparation of new or supplemental environmental assessments. This section shall not apply to any decision on the determination of damages due to the Government for defaulted or canceled contracts.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1987".

[Total, Department of the Interior and Related Agencies Appropriations, 1987:

[New budget (obligational) authority (net)	*$8,308,405,000.]*
[Appropriations, definite	*8,346,362,000.]*
[Appropriations, indefinite	*−34,757,000.]*
[Rescission	*−3,200,000.]*
[Liquidation of contract authority	*12,500,000.]*
[Limitation on direct loans	*16,320,000.]*
[Timber receipts transfer to general fund, indefinite	*−86,815,000.]*
[By transfer	*2,992,000.]*

(i) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5233, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-960) as filed in the House of Representatives on October 2, 1986, as if enacted into law: *Provided*, That funds made available under such Act, and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1986 (Public Law 99-178; 99 Stat. 1103), under the paragraph of each Act entitled "STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS" that are authorized under section 6 of the Wagner-Peyser Act (29 U.S.C. 49e) may be used to carry out the targeted jobs tax credit program under section 51 of the Internal Revenue Code of 1986.

$113,947,638,000 *(Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987)*

(j) Such amounts as may be necessary for programs, projects, or activities provided for in H.R. 5203, the Legislative Branch Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-805) as filed in the House of Representatives on August 15, 1986, as if enacted into law.

1,637,290,214 *(Legislative Branch Appropriations Act, 1987)*

(k) Such amounts as may be necessary for programs, projects or activities provided for in the Military Construction Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriation Act:

(Military Construction Appropriations Act, 1987)

AN ACT

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—MILITARY CONSTRUCTION

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1987, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $1,260,110,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $131,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the amount available for study, planning, design, architect and engineer services, $1,000,000 shall be available for the design of facilities at Fort Benning, Georgia necessary due to the establishment of the United States Army School of the Americas at Fort Benning: *Provided further*. That of the funds available for obligation for "Military Construction, Army" under Public Law 99-173, $36,400,000 is hereby rescinded. In addition, for construction at Fort Drum, New York, there is appropriated in advance to be available for obligation in fiscal year 1988, $221,000,000, to remain available until September 30, 1992, and to be available for obligation in fiscal year 1989, $214,000,000. to remain available until September 30, 1993

$1,260,110,000

−36,400,000 *(rescission)*

221,000,000 *(advance appropriation, fiscal year 1988)*

214,000,000 *(advance appropriation, fiscal year 1989)*

[Total, military construction, Army:

[New budget (obligational) authority (net) ...... $1,658,710,000.]

[Appropriation, fiscal year 1987 .... 1,260,110,000.]

[Rescission .... −36,400,000.]

[Advance appropriation, fiscal year 1988. 221,000,000.]

[Advance appropriation, fiscal year 1989. 214,000,000.]

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,376,715,000, to remain available until September 30. 1991: *Provided*, That of this amount, not to exceed $143,770,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds available for obligation for "Military Construction, Navy" under Public Law 99-173, $25,800,000 is hereby rescinded.

1,376,715,000

−25,800,000 *(rescission)*

[Total, military construction, Navy:

[New budget (obligational) authority (net) ...... $1,350,915,000.]

[Appropriation, fiscal year 1987 .... 1,376,715,000.]

[Rescission .... −25,800,000.]

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,242,530,000, to remain available until September 30, 1991: *Provided*, That of this amount, not to exceed $117,260,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes

1,242,530,000

and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds available for obligation for "Military Construction, Air Force" under Public Law 99-173, $24,700,000 is hereby rescinded. −$24,700,000 *(rescission)*

[*Total, military construction, Air Force:*
[*New budget (obligational) authority (net)* ...... *$1,217,830,000.*]
[*Appropriation, fiscal year 1987* .... *1,242,530,000.*]
[*Rescission* .... *−24,700,000.*]

MILITARY CONSTRUCTION, DEFENSE AGENCIES

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $534,170,000, to remain available until September 30, 1991: 534,170,000 *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $83,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition of personal property, for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $232,000,000, to 232,000,000 remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $140,879,000, to remain available until 140,879,000 September 30, 1991.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $148,925,000, to remain available until September 30, 1991. 148,925,000 In addition, notwithstanding any other provision of law, $5,000,000 shall be available only for transfer in fiscal year 1988 to the Federal Highway Administration of the Department of

Transportation as the first increment of a four year program for construction of a defense access road under title 23, United States Code, section 210 at Greater Pittsburgh ANG base; and, notwithstanding any other provision of law, the Secretary of the Air Force may assure the Secretary of Transportation that funds will be provided for the remaining three annual increments of $5,000,000 each.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $86,700,000, to remain available until September 30, 1991. $86,700,000

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $44,500,000, to remain available until September 30, 1991. 44,500,000

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization acts, $58,900,000, to remain available until September 30, 1991. 58,900,000

[Total, military construction:

[New budget (obligational) authority (net)	*$5,473,529,000.]*
[Appropriations, fiscal year 1987	*5,125,429,000.]*
[Rescissions	*−86,900,000.]*
[Advance appropriation, fiscal year 1988.	*221,000,000.]*
[Advance appropriation, fiscal year 1989.	*214,000,000.]*

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $379,680,000; for Operation and maintenance, $1,209,914,000; for debt payment, $8,063,000; in all $1,597,657,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991. 1,597,657,000 −7,646,000 *(debt reduction)*

[Total, family housing, Army:

[New budget (obligational) authority (net)	*$1,590,011,000.]*
[Appropriation	*1,597,657,000.]*
[Portion applied to debt reduction	*−7,646,000.]*

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $171,392,000; for Operation and maintenance, $528,230,000; for debt payment, $9,071,000; in all $708,693,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

$708,693,000
−8,613,000
(debt reduction)

[Total, family housing, Navy and Marine Corps:
[New budget (obligational) authority (net)...... $700,080,000.]
[Appropriation .... 708,693,000.]
[Portion applied to debt reduction..... −8,613,000.]

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $104,840,000; for Operation and maintenance, $703,215,000; for debt payment, $7,365,000; in all $815,420,000: *Provided*, That the amount provided for construction shall remain available until September 30,1991.

815,420,000
−6,909,000
(debt reduction)

[Total, family housing, Air Force:
[New budget (obligational) authority (net)...... $808,511,000.]
[Appropriation .... 815,420,000.]
[Portion applied to debt reduction..... −6,909,000.]

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $240,000; for Operation and maintenance, $16,403,000; in all $16,643,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

16,643,000

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended) $2,000,000

2,000,000

[Total, family housing:
[New budget (obligational) authority (net)...... $3,117,245,000.]
[Appropriations.. 3,140,413,000.]
[Portion applied to debt reduction..... −23,168,000.]

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States

Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this title may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this title shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this title shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this title for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this title may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this title for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this title may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this title for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds appropriated by this title may be obligated and expended in any way for the express purpose of sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 114. None of the funds in this title may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 115. None of the funds appropriated in this title may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 116. None of the funds appropriated in this title for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 117. The Secretary of Defense is to inform the Committees on Appropriations and Committees and Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 118. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1987, shall be transferred to the appropriations for Family Housing provided in this title, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 119. Not more than 20 per centum of the appropriations in this title which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 120. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the Ninety-ninth Congress.

SEC. 121. For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation "Foreign Currency Fluctuations, Construction, Defense" the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That no later than the end of the second fiscal year following the fiscal year for which appropriations for Family Housing Operation and Maintenance have been made available to the Department of Defense, and no later than the end of the sixth fiscal year following the fiscal year for which the appropriations for Military Construction and Family Housing Construction have been made available to the Department of Defense, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense": *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.

SEC. 122. The Secretary of the Navy shall enter into negotiations with shipyards located on Sampson Street, San Diego, California, and on Fort George Island, Jacksonville, Florida, to determine what liability (if any) the United States has for damages suffered by such a shipyard resulting from facility improvements made by such shipyard during 1982 in good faith reliance on representations and assurances provided to officials of such shipyard by representatives of the Department of the Navy in 1981 and 1982 with respect to future work of the Department of the Navy at such shipyard.

SEC. 123. For Military Construction for the strategic homeporting initiative, no more than $799,000,000 shall be appropriated or obligated through fiscal year 1991.

SEC. 124. Of the total amount of budget authority provided for fiscal year 1987 by this Act that would otherwise be available for consulting services, management and professional services, and special studies and analyses, 10 per centum of the amount intended for such purposes in the President's budget for 1987, as amended, for any agency, department or entity subject to apportionment by the Executive shall be placed in reserve and not made available for obligation or expenditure: *Provided*, That this section shall not apply to any agency, department or entity whose budget request for 1987 for the purposes stated above did not amount to $5,000,000.

SEC. 125. (a) None of the funds appropriated in this Act may be available for any country if the President determines that the government of such country is failing to take adequate measures to prevent narcotic drugs or other controlled substances cultivated or produced or processed illicitly, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country of United States personnel or their dependents, or from being smuggled into the United States. Such prohibition shall continue in force until the President determines and reports to the Congress in writing that—

(1) the government of such country has prepared and committed itself to a plan presented to the Secretary of State that would eliminate the cause or basis for the application of such country of the prohibition contained in the first sentence; and

(2) the government of such country has taken appropriate law enforcement measures to implement the plan presented to the Secretary of State.

(b) The provisions of subsection (a) shall not apply in the case of any country with respect to which the President determines that the application of the provisions of such subsection would be inconsistent with the national security interests of the United States.

SEC. 126. Section 4, chapter III of Public Law 99-349, dated July 2, 1986, is amended to read as follows: Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section without a determination of legal liability based on an act or omission of an agent or employee of the Federal Government.

SEC. 127. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1987, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1987 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

This title may be cited as the "Military Construction Appropriations Act, 1987".

[Total, Military Construction Appropriations, 1987:

[New budget (obligational) authority (net)....	*$8,590,774,000.]*
[Appropriations, fiscal year 1987 (net) ...	*8,155,774,000.]*
[Appropriations..................................	*8,265,842,000.]*
[Rescissions	*−86,900,000.]*
[Portion applied to debt reduction ..	*−23,168,000.]*
[Advance appropriation, fiscal year 1988	*221,000,000.]*
[Advance appropriation, fiscal year 1989	*214,000,000.]*

TITLE II

CENTRAL AMERICA

PURPOSES

(Central America)

SEC. 201. The purposes of this title are to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and towards these ends, to enable the President to provide additional economic assistance for the Central American democracies as well as assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of title.

POLICY TOWARD CENTRAL AMERICA

SEC. 202. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the National Bipartisan Commission on Central America;

(2) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(3) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purpose of achieving a democratic political settlement of the conflict, including free and fair elections

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 203. (a) United States policy toward the Government of Nicaragua shall be based upon that government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures (including efforts to secure the cooperation of other democratic nations in such measures), as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the Government of Nicaragua simultaneously engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua based upon democratic principles, without the use of force by the United States.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 204. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) It is recognized that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this title to further the developments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred by section 6(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

ASSISTANCE FOR THE CENTRAL AMERICAN DEMOCRACIES

SEC. 205. (a) There are hereby transferred to the President for assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) in accordance with the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961; $300,000,000 of unobligated funds from the accounts specified in subsection (b). Amounts transferred under this section shall be administered in accordance with the terms and conditions of chapter 6 of part I of the Foreign Assistance Act of 1961. Notwithstanding any other provision of law, funds made available by this section—

(1) shall be in addition to amounts previously appropriated for the fiscal year 1986 and allocated for assistance to Central American countries, and

(2) shall remain available for obligation until September 30, 1987, except that not less than $100,000,000 shall be obligated on or before September 30, 1986.

(b) Amounts made available by this section shall be transferred from such accounts as the President may designate for which appropriations were made by title II of the Foreign Assistance and Related Programs Appropriations Act, 1986, title IV of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1986, (as contained in Public Law 99-190), and title II of the Urgent Supplemental Appropriations Act, 1985 (Public Law 99-10).

(c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

(2) The report required by paragraph (1) shall include an analysis and recommendations, prepared in consultation with the Secretary of Agriculture, on how more effective use can be made of agricultural commodities from the United States in alleviating hunger in Central America and contributing to the economic development of the Central American democracies.

(d)(1) There are hereby transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require but not more than $2,000,000, to facilitate the participation of Costa

Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

(e) The Congress reaffirms its support for the establishment of a Central American Development Organization, authorized by section 464 of the Foreign Assistance Act of 1961, as an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development, including the strengthening of democratic pluralism and respect for internationally recognized human rights. Toward this end, not less than $750,000 of the funds transferred by this section should be used to establish the Central American Development Organization and its administrative apparatus so as to ensure that Central American development objectives are encouraged.

ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 206. (a)(1) The Congress hereby approves the provision o. assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are hereby tansferred to the President for the purposes of this section $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

(b) Notwithstanding the Impoundment Control Act of 1974, not more than 40 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this title upon the date of its enactment; not more than an additional 20 percent of such funds may be so available no earlier than October 15, 1986, and 15 days after the transmittal to the Congress of the determination required by section 11(c); and not more than the remaining 40 percent may be so available no earlier than February 15, 1987, and 15 days after the transmittal to the Congress of the determination required by section 11(e).

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this title.

COORDINATION OF AND ACCOUNTABILITY FOR ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 207. (a) The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

(b) Any agency to which funds transferred under section 6(a) are allocated shall establish standards, procedures and controls necessary to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures and controls shall be developed in consultation with the Comptroller General and the appropriate committees of the Congress, and shall include such safeguards as segregation of accounts, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 208. (a) Of the amounts transferred under section 6(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance.

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 209. (a) Except as otherwise provided in this title, funds transferred under section 6(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 6(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of funds transferred to the President under this title.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 210. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then—

(1) the unobligated balance, if any, of funds transferred under section 6(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) the President shall terminate any economic embargo of Nicaragua then in effect; and

(3) the President shall take such further actions as appropriate to carry out the policy described in section 2(a)(1) of this title with respect to all Central American countries, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 211. (a) Assistance to the Nicaraguan democratic resistance under this title shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general

amnesty, abolition of the state of emergency agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Government of Nicaragua would simultaneously engage in a dialogue with all elements of the Nicaraguan democratic opposition; and

(4) The United Nicaraguan Opposition on May 29, 1986, reiterated its support for the six-party proposal described in paragraph (1) as a means to achieve national reconciliation and democratization.

(b)(1) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (e), assistance to the Nicaraguan democratic resistance under this title shall be limited to the following:

(A) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(B) logistics advice and assistance;

(C) support for democratic political and diplomatic activities;

(D) training, services, equipment and supplies for radio communications, collection, and utilization of intelligence, logistics, and small-unit skills, tactics and operations; and

(E) equipment and supplies necessary for defense against air attacks.

(2) The assistance described in paragraph (1) shall be limited, by type and value, to the matters specified in the classified annex to the communication from the President to the Speaker of the House of Representatives and the President of the Senate dated June 24, 1986.

(3) No weapons or ammunition shall be delivered under this title to the Nicaraguan democratic resistance prior to September 1, 1986.

(c) On and after October 15, 1986, an additional $20,000,000 of the funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialogue, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

(d)(1) Notwithstanding any other provision of this title, on or after October 15, 1986, funds transferred under section 6(a) may be obligated or expended only if the President determines and reports to the Congress that the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement—

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership; and

(F) the application of rigorous standards, procedures and controls to assure that funds transferred under section 6(a) are fully accounted for and are used exclusively for the purposes authorized by this title.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this title, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government;

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this title and to establish the goals for their military operations;

(E) to determine the distribution of and maintain accountability for assistance provided under this title; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under the title.

(e) On and after February 15, 1987, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 212. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in subparagraphs (A) through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part

of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 213. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(3) The appointments referred to in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made within 5 calendar days following enactment of this title, and the selection of a chairman referred to in subparagraph (E) of paragraph (1) shall be made within 10 days following enactment of this title.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a member of the Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representative and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress or a report by the President under section 14 the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 14; and

(2) not later than September 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement measures described in subparagraphs (A) through (F) of section 11(d)(1) and an evaluation of the factors described in section 11(d)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 90 days after transmittal of the reports required by subsection (e).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 214. The President shall prepare and transmit to the Congress with each determination required by section 11 a report on actions taken to achieve a resolution of the conflict in Central America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 6(a) and a detailed statement of how the accountability standards, procedures and controls established under section 7(b) and 11(d)(1)(F) are being implemented so as to assure that all such funds are fully accounted for and are being used exclusively for the purposes authorized by this title;

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 215. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title   of the Military Construction Appropriation Act, 1987."),

except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

LIMITATION ON PARTICIPATION OF UNITED STATES GOVERNMENT PERSONNEL IN DELIVERY OF ASSISTANCE

SEC. 216. (a) United States Government personnel may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua.

(b) As used in this section, the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any employee of any department, agency, or other component of the executive branch of the United States Government;

but does not include any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title.

TITLE III—EMERGENCY RESERVE FOR AFRICAN FAMINE RELIEF

SEC. 301. Title II of Public Law 99-10 is amended, under the heading "Emergency Reserve for African Famine Relief", by striking out "$225,000,000" and inserting in lieu thereof "$525,000,000".

(African Famine Relief)

SEC. 302. Of the funds appropriated under title II of Public Law 99-10, as amended by this Act, $300,000,000 shall remain available for obligation until September 30, 1987, notwithstanding any other provision of law or this Act.

(l) Such amounts as may be necessary are hereby appropriated for programs, projects, or activities provided for in H.R. 5205, the Department of Transportation and Related Agencies Appropriations Act, 1987, to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-976) as filed in the House of Representatives on October 7, 1986, as if enacted into law, except that such conference agreement shall be considered as including the following language in lieu of section 331 of H.R. 5205 as passed by the House of Representatives on July 30, 1986:

$10,253,373,069 *(Department of Transportation and Related Agencies Appropriations Act, 1987)*

"SEC. 331. AIR TRAFFIC CONTROLLER WORK FORCE REQUIREMENTS.—The Federal Aviation Administration shall satisfy the following criteria by September 30, 1987:

"(a) total air traffic controller work force level of 15,000;

"(b) with respect to the air traffic controller work force, of those individuals eligible to be Full Performance Level controllers, 70 percent shall have achieved Full Peformance Level status;

"(c) with respect to staffing at particular air traffic control facilities, of those individuals eligible to be Full Performance Level controllers, at least 60 percent at all centers and level 3 and above terminals shall have achieved Full Performance Level status.".

(m) Such amounts as may be necessary for programs, projects or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1987, at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

(Treasury, Postal Service, and General Government Appropriations Act, 1987)

AN ACT

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1987, and for other purposes.

TITLE I—TREASURY DEPARTMENT

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $650,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $52,642,000. 52,642,000

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $22,442,000. $22,442,000

[*Total, Office of the Secretary, $75,084,000.*]

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Salaries and Expenses

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for repair, alteration, minor construction, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; not to exceed $2,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: *Provided*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center; $29,499,000. 29,499,000

FINANCIAL MANAGEMENT SERVICE

Salaries and Expenses

For necessary expenses of the Financial Management Service, $240,117,000, of which not to exceed $2,137,000 shall remain available until expended for systems modernization initiatives. 240,117,000

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Salaries and Expenses

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of three hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; $193,463,000, of which 193,463,000 $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1987, and of which $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume

43, number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device.

UNITED STATES CUSTOMS SERVICE

Salaries and Expenses

For necessary expenses of the United States Customs Service, including purchase of up to five hundred motor vehicles for replacement only, including four hundred and ninety for police-type use; hire of passenger motor vehicles; not to exceed $10,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $786,000,000, of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $1,000,000, to remain available until expended, for research: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1987: *Provided further*, That the United States Customs Service shall hire and maintain an average of 14,891 full-time equivalent positions in fiscal year 1987: *Provided further*, That none of the funds made available in this or any other Act may be used to fund more than nine hundred and fifty positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1986 and the Customs Service shall begin planning to reduce headquarters staff to no more than nine hundred positions by September 30, 1987: *Provided further*, That no funds appropriated by this Act may be used to implement single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1987. $786,000,000

Operation and Maintenance, Air Interdiction Program

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $77,819,000. 77,819,000

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $8,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund. 8,000,000

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $365,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended. $365,000

[*Total, United States Customs Service, $872,184,000.*]

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $42,508,000, of which $1,325,000 shall remain available until expended for research and development projects. 42,508,000

EXPANSION AND IMPROVEMENTS

For expansion and improvements to existing Mint facilities, $694,000, to remain available until expended. 694,000

[*Total, United States Mint, $43,202,000.*]

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $198,564,000. 198,564,000

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services, as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $95,147,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research. 95,147,000

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,332,902,000, of which not to exceed $50,000,000 shall remain available until expended for systems modernization initiatives. 1,332,902,000

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,623,162,000. $1,623,162,000

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided*, That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further*, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,400,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,400,000 can be devoted to program requirements; $1,196,581,000. 1,196,581,000

[*Total, Internal Revenue Service, $4,247,792,000.*]

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 1 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; including $6,000,000 for continued construction at the James J. Rowley Secret Service Training Center; for research and development; not to exceed $7,500 for official reception and representation expenses; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $318,000,000, of which $500,000 shall remain available until expended for research. $318,000,000

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 1 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1987".

[*Total, title I, Department of the Treasury, new budget (obligational) authority, $6,217,905,000.*]

TITLE II—POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (b) and (c) of section 2401 of title 39, United States Code; $650,000,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program 650,000,000 of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1987: *Provided further*, That

(a) Section 2254 of title 18, United States Code, is amended by adding after subsection (b) the following:

"(c) The Postal Service may carry out a forfeiture under this section if the violation involves the mails. The Postal Service shall exercise the authority of the Attorney General under subsection (b) of this section with respect to such forfeiture.".

(b) Section 2003 of title 39, United States Code, is amended—

(1) in subsection (b)(5), by striking out "and";

(2) in subsection (b)(6), by striking out the period at the end and inserting "; and" in lieu thereof;

(3) by inserting at the end of subsection (b) the following:

"(7) amounts (including proceeds from the sale of forfeited items) from any civil administrative forfeiture conducted by the Postal Service under title 18."; and

(4) in the first sentence of subsection (e)(1), by striking out "under this title" and inserting in lieu thereof "as provided by law".

(c) Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting before the period at the end of paragraph (1) ", and any property, real or personal, tangible or intangible, which was used or intended to be used, in any manner or part, to facilitate a violation of this chapter";

(2) in subsection (b) by striking "Attorney General," and inserting "Attorney General or the Postal Service,"; and

(3) by adding at the end the following new subsection:

"(d) The authority of the Postal Service under subsection (b) shall be exercised only where the conduct with respect to which such seizure or forfeiture occurs includes use of the mails in violation of this chapter.".

This title may be cited as the "Postal Service Appropriations Act, 1987".

[*Total, title II, Postal Service, new budget (obligational) authority, $650,000,000.*]

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

Compensation of the President

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

$250,000

OFFICE OF ADMINISTRATION

Salaries and Expenses

For necessary expenses of the Office of Administration; $15,700,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

15,700,000

THE WHITE HOUSE OFFICE

Salaries and Expenses

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $24,450,000. $24,450,000

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $4,700,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114. 4,700,000

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Operating Expenses

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, and not to exceed $60,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $211,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities. 211,000

SPECIAL ASSISTANCE TO THE PRESIDENT

Salaries and Expenses

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $1,790,000. 1,790,000

COUNCIL OF ECONOMIC ADVISERS

Salaries and Expenses

For necessary expenses of the council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,275,000. 2,275,000

OFFICE OF POLICY DEVELOPMENT

Salaries and Expenses

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $2,600,000. 2,600,000

NATIONAL CRITICAL MATERIALS COUNCIL

Salaries and Expenses

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $175,000. $175,000

NATIONAL SECURITY COUNCIL

Salaries and Expenses

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $4,550,000. 4,550,000

OFFICE OF MANAGEMENT AND BUDGET

Salaries and Expenses

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $37,000,000 of which not to exceed $5,408,000 shall be available for the Office of Information and Regulatory Affairs: *Provided*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further*, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further*, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further*, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder. 37,000,000

OFFICE OF FEDERAL PROCUREMENT POLICY

Salaries and Expenses

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $1,600,000. 1,600,000

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000. 1,000,000

This title may be cited as the "Executive Office Appropriations Act, 1987".

[Total, title III, Executive Office of the President, new budget (obligational) authority, $96,301,000.]

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Salaries and Expenses

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; $1,469,000. $1,469,000

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Salaries and Expenses

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79; $1,750,000, and additional amounts collected from the sale of publications shall be credited to and used for the purposes of this appropriation. 1,750,000

ADVISORY COMMITTEE ON FEDERAL PAY

Salaries and Expenses

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $201,000. 201,000

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Salaries and Expenses

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, including hire of passenger motor vehicles; $778,000. 778,000

FEDERAL ELECTION COMMISSION

Salaries and Expenses

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $12,800,000. 12,800,000

GENERAL SERVICES ADMINISTRATION

[1]*2,385,856,000 (Federal buildings fund, limitations)*

Federal Supply Service

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, property management, and other supply management activities, transportation activities, transportation audits by in-house personnel; utilization of excess and disposal of surplus personal property, and the rehabilitation of personal property including services as authorized by 5 U.S.C. 3109; $160,944,000: *Provided*, That in addition to this appropriation, the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88 payable from overcharges collected, for expenses of transportation audit contracts and contract administration is increased to $10,500,000 for fiscal year 1987.

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[1] Shown under sec. 115 of this Act (see p. 517, this volume).

$160,944,000
[1]5,300,000
[2]−11,300,000

[*Total, Federal Supply Service (net), $154,944,000.*]

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(Including transfer of funds)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property; the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98, et seq.) the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; $39,108,000, of which $11,000,000 shall be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and of which $28,108,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile shall remain available through fiscal year 1988.

39,108,000

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Massachusetts at Amherst. For the year ending September 30, 1987, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, pursuant to 50 U.S.C. 98a and g(a), (2)(c), and 50 U.S.C. 100a, notwithstanding the provisions of 50 U.S.C. 98h, an additional $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Nevada at Reno. Notwithstanding any other provision of law, funds previously made available to the fund before January 1, 1985, may be used for evaluating, testing, relocating, and upgrading stockpile materials to meet current stockpile goals and specifications.

5,000,000
5,000,000

[*Total, National Defense Stockpile Transaction Fund, $10,000,000.*]

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[1] Increased limitation payable from overcharges collected.

[2] Estimated recoveries of transportation charges authorized by Public Law 99-88 (99 Stat. 373).

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $120,289,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code. $120,289,000

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $29,000,000. 29,000,000

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $21,108,000: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property. 21,108,000

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,171,800: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts. 1,171,800

[*Total, General Activities, $220,676,800.*]

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with (1) cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129); and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff) and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget.

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 4. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds in the Federal Buildings Fund made available for fiscal year 1987 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 6. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

[*Total, General Services Administration, $375,620,800.*]

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $100,321,000 of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

$100,321,000

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $99,000,000 in addition to $60,900,000 for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided*

99,000,000
60,900,000
(limitation on administrative expenses)

further, That funds made available by this appropriation may be used, at the discretion of the Director of the Office of Personnel Management, to provide salaries, administrative support and for other expenses of the Commission on Executive, Legislative, and Judicial Salaries. No part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive order 9358 of July 1, 1943, or any successor unit of like purpose.

REVOLVING FUND

Pursuant to section 1304(e)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,459,000,000, to remain available until expended. $1,459,000,000

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,557,000,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 4,557,000,000

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Retirement Thrift Investment Board as authorized by the Federal Employees' Retirement System Act of 1986 (Public Law 99–335); $5,250,000: *Provided*, That section 701(a) of Public Law 99–335, the Federal Employees' Retirement System Act of 1986, is amended by striking "shall" after "1987" and inserting in lieu thereof, "may". 5,250,000

[*Total, Office of Personnel Management, $6,120,250,000.*]

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $19,140,000, together with not to exceed $1,200,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board. 19,140,000 *1,200,000 (limitation on administrative expenses)*

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95–454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4.396,000. $4,396,000

[*Total, Merit Systems Protection Board, $23,536,000.*]

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $16,330,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistance as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C. 3109. 16,330,000

[*Total, Federal Personnel Activities, $6,160,116,000.*]

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $25,538,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge. 25,538,000

This title may be cited as the "Independent Agencies Appropriations Act, 1987".

[*Total, title IV, Independent Agencies:*
[*New budget (obligational) authority* .... *$6,678,593,800.*]
[*Limitations* .... *2,447,956,000.*]

TITLE V—GENERAL PROVISIONS

THIS ACT

SEC. 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 509. (a) The General Services Administration shall not sell, lease, transfer, or otherwise dispose of any portion of the approximately twenty-six acres of Fort DeRussy, Hawaii, lying southwest of Kalia Road, which includes the Hale Koa Hotel, the Armed Forces Recreation Center, and beachfront area.

(b) However, notwithstanding any other provision of law, including any limitation on appropriations in this or any other Act which, but for this provision, limit the obligation or expenditure of funds for the sale, lease, rental, or excessing of Fort DeRussy, Honolulu, Hawaii, the Secretary of the Army (hereinafter referred to as the "Secretary") is directed to sell and convey to the State of Hawaii or the city and county of Honolulu through the General Services Administration, at the fair market value as determined by, and upon such terms and conditions as are acceptable to the Administrator of General Services, the remaining approximately forty-five acres of Fort DeRussy lying northeast of Kalia Road, which comprises the three United States Army Reserves Centers and miscellaneous facilities. The exact acreages and legal descriptions shall be determined by the Secretary.

(c) The Secretary is authorized to acquire land and design and construct such facilities as are necessary to replace those on the land to be sold pursuant to subsection (b). The Secretary is also authorized to relocate activities currently located at Fort DeRussy to such replacement facilities.

(d) Notwithstanding any other provision of law, the General Services Administration is authorized to make funds available for the acquisition of land and replace facilities authorized to be acquired or constructed pursuant to subsection (c) and to pay associated relocation costs, and funds are hereby made available for this purpose

(e) The proceeds of the sale authorized in subsection (b) shall be covered by the Administrator of General Services into the Treasury as miscellaneous receipts.

(f) A conveyance under subsection (b) shall provide that all of the land conveyed shall remain the property of the State of Hawaii, or the City and County of Honolulu, Hawaii, as the case may be.

SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Information Resources Management Office of the General Services Administration located in Sacramento, California.

SEC. 511. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 512. None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 513. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. 514. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 515. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of

such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 516. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. 517. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. 518. The provision of section 517 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 519. Effective September 30, 1987, none of the funds made available by this Act or any other Act with respect to fiscal year 1987 and any other fiscal year may be used to store, to maintain or to protect more than 128,000,000 troy ounces of silver deposited in the National Defense Stockpile. The Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all proceeds generated from the disposal of silver to purchase, no later than October 1, 1988, stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 520. No later than October 1, 1988, the Administrator of General Services, or ny Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 521. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 522. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. 523. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

SEC. 524. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 525. The United States Courthouse located at 223 Park Avenue Southwest in Aiken, South Carolina, shall be known and designated as the "Charles E. Simons, Jr., Federal Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such courthouse is deemed to be a reference to the "Charles E. Simons, Jr., Federal Courthouse".

SEC. 526. The Director of the Office of Management and Budget shall include in the area designated as the Wichita Metropolitan Statistical Area the County of Harvey, Kansas.

SEC. 527. (a) The Director of the Office of Personnel Management (hereafter in this section referred to as the "Director") shall pay out of the Civil Service Retirement and Disability Fund, an annuity of $1,500 per month to Gladys Pyle of Huron, South Dakota, who served as a United States Senator from November, 1938, to January, 1939, and is not otherwise eligible to receive an annuity on the basis of her services as a Senator.

(b) The annuity provided under subsection (a)—

(1) shall commence on the first day of the month in which this joint resolution is enacted; and

(2) shall terminate on the date of the death of the said Gladys Pyle.

(c)(1) The Director shall administer the provisions of this section.

(2) Sections 8340, 8346, 8348(a), and 8348(f) of title 5, United States Code, shall apply with respect to the annuity provided under the subsection (a).

SEC. 528. In the administration of the provisions of section 603 of this Act, during fiscal year 1987, Erna Avari Patrick of Columbia, South Carolina shall be considered to have satisfied the requirement of clause (3) of such section.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–5924.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled in the United States after January 1, 1975: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1987

SEC. 611. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 612. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted.

SEC. 613. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1987, or September 30, 1988, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of H.R. 3036, incorporated by reference in section 101(h) of Public Law 99-190, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1987 and that portion of fiscal year 1988 that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1988, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1987.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to any prevailing rate employee to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate that is required by the terms of a contract entered into before the date of enactment of this Act.

(c) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(d) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1986, shall be determined under regulations prescribed by the Office of Personnel Management.

(e) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1986, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(f) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1. 1986.

(g) For the purpose of administering any provision of law, rule, or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(h) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(i) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 614. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the

United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 615. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 616. (a) If any individual or entity which provides or proposes to provide child care services for Federal employees applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. 617. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 618. (a) ELIGIBILITY TO PARTICIPATE IN 1986.—(1) Notwithstanding any other provision of law, and any regulations prescribed thereunder, any application by the Federal Employee Education and Assistance Fund (a nonprofit corporation incorporated in the District of Columbia) for admission to the Combined Federal Campaign, whether in a particular community or otherwise, shall be considered without regard to any eligibility requirements, to the extent that such requirements relate to any period before the date on which such Fund became incorporated.

(2) The eligibility of the Fund to be admitted to the Combined Federal Campaign in a particular community shall also be determined without regard to any criteria relating to having a "direct and substantial presence" in the community involved.

(3) This subsection shall be effective only with respect to the Combined Federal Campaign as conducted during calendar year 1986.

(b) DEFINITIONS.—For the purpose of this section, the term "Combined Federal Campaign" and the term "community" each has the

meaning given such term by section 950.101 of title 5 of the Code of Federal Regulations (as in effect on the date of the enactment of this Act).

Sec. 619. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing any regulations dealing with organization participation in the 1986 and 1987 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in 1986 and 1987 campaign: *Provided further,* That none of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with the Combined Federal Campaign ("CFC") which require or allow the Office of Personnel Management to directly or indirectly determine the eligibility of any agency to participate in the CFC (other than the local service of those agencies which perform a substantial preponderance of their services in the United States) if that agency is a member of a qualified federated group.

Sec. 620. None of the funds appropriated or made available by this Act shall be used to implement or enforce the rule proposed on May 7, 1986 (51 Federal Register 16988–16991), or any other regulation issued pursuant to statute requiring competitive bidding for electricity, gas, or steam utility services acquired by the Federal Government.

Sec. 621. None of the funds appropriated by this or any other Act may be used prior to July 15, 1987, to repeal, amend, or modify any policy, procedure, or practice contained in subpart 19.5 of title 48 of the Code of Federal Reglations (as such subpart was in effect on July 31, 1986) except if such subpart requires modification to implement the amendments made by section 911 (relating to small business set-asides) of H.R. 4438 (99th Congress, 2d Session), or the amendments made by any successor provision to such section, if such bill is enacted into law.

Sec. 622. Section 202 of title 3, United States Code, is amended by inserting a new clause (3) to read "(3) the Treasury Building and grounds;" and by renumbering previously existing clauses (3) through (8) as clauses (4) through (9). The word "immediately" in prior clause (6) (renumbered clause (7)) is stricken and the word "immediate" is inserted in its place.

Sec. 623. The Rural Electrification Act of 1936 is amended by inserting after section 310 (7 U.S.C. 940) the following new section:

"Sec. 311. Privatization Program.—The Administrator shall establish a privatization demonstration program which shall permit borrowers to prepay loans made by the Federal Financing Bank and guaranteed under section 306 of this Act by paying the outstanding principal balance due on the loans. No sums in addition to the payment of the outstanding principal balance due on the Federal Financing Bank loans may be charged as the result of such prepayment against the borrower, the fund, or the Rural Electrification Administration. Federal Financing Bank loans shall be refinanced using the existing section 306 loan guarantee, with private capital, in an amount not to exceed the outstanding principal amount prepaid: *Provided,* That such guarantee of private capital shall be 90% of the principal amount of the loan or any portion thereof plus accrued interest outstanding at any time during the maturity period of the loan and shall be fully transferable and assignable. Notwithstanding any other provision of law, borrowers may prepay Federal Financing Bank loans under this section, except that such borrowers shall be required to prepay all of their outstanding loans made or guaranteed under this Act within one year of prepayment of the first loan. A direct or insured loan prepaid under this section shall be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. A Rural Telephone Bank loan shall be prepaid by paying the outstanding principal balance on the loan. No guarantee or other financial assistance shall be available to the borrowers to refinance outstanding loans prepaid hereunder. In the case of an electric borrower prepaying under this section or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower. In the case of a telephone borrower prepaying under this section, or otherwise prepaying a loan at less than the outstanding principal balance due on the loan, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to this Act to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower. In determining the service area of electric borrowers, the Administrator shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under this Act where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas. In the event that the borrower prepaying under this section shall be using a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 30, 1986, shall continue to remain eligible for financing under this Act for needs in their service area. Nothing in this section shall prohibit a borrower which has prepaid pursuant to this section from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under this Act: *Provided further,* That nothing in this section shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid. The Administrator shall issue regulations to implement this section within 60 days."

TITLE VII—TRANSFER OF ANNUAL LEAVE AND SICK LEAVE

SEC. 701. (a) IN GENERAL.—(1) Notwithstanding any provision of chapter 63 of title 5, United States Code, and with the approval of the director of the Fort Lauderdale district of the Internal Revenue Service, an employee of the Internal Revenue Service whose official station is the Fort Lauderdale district may transfer accumulated annual leave accrued under section 6303 of title 5, United States Code, and accumulated sick leave accrued under section 6307 of such title to the account of either Shannon Chiles or Joe Chiles, Jr., employees of the Internal Revenue Service in the Fort Lauderdale district.

(2) For purposes of chapter 63 of title 5, United States Code, annual leave and sick leave transferred under paragraph (1) shall be treated as the annual leave and sick leave accrued by the individual to whose account the leave is transferred, except that such annual leave accumulates without regard to the limitation imposed by section 6304(a) of title 5, United States Code.

(3) The transfer of annual leave or sick leave under paragraph (1) by an employee reduces the account of such employee by the amount of the leave so transferred.

(b) AUTHORITY TO RESTORE TRANSFERRED LEAVE.—With the approval of the director of the Fort Lauderdale district, Shannon Chiles or Joe Chiles, Jr., may, by transfer, restore unused leave to an employee from whom leave was received, except that the amount of leave so restored by each of them may not exceed the amount of leave received by them, respectively, from such employee.

(c) EXPIRATION OF AUTHORITY.—The authority to transfer leave under subsection (a)(1) and the authority to restore unused leave under subsection (b) shall terminate 180 days after the disease of Shannon Chiles no longer exists.

(d) TEMPORARY AUTHORITY TO TRANSFER LEAVE.—(1) Notwithstanding any other provision of law, under regulations prescribed by the President, the unused accrued leave of one officer or employee of the Federal Government may be transferred for use by another officer or employee of the Federal Government in not more than three cases of personal emergencies defined for the purposes of this paragraph in such regulations.

(2) The authority prescribed in paragraph (1) shall terminate upon the issuance of a report to Congress which contains the findings of the President on voluntary leave policy.

TITLE VIII—PAPERWORK REDUCTION REAUTHORIZATION

SHORT TITLE

SEC. 801. This title may be cited as the "Paperwork Reduction Reauthorization Act of 1986".

PART A—AMENDMENTS TO THE PAPERWORK REDUCTION ACT OF 1980

PURPOSE

SEC. 811. (a) Section 3501(3) of title 44, United States Code, is amended to read as follows:

"(3) to maximize the usefulness of information collected, maintained, and disseminated by the Federal Government;".

(b) Section 3501(5) of such title is amended to read as follows:

"(5) to ensure that automatic data processing, telecommunications, and other information technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, improves the quality of decisionmaking, reduces waste and fraud, and wherever practicable and appropriate, reduces the information processing burden for the Federal Government and for persons who provide information to and for the Federal Government; and".

DEFINITIONS

SEC. 812. Section 3502 of title 44, United States Code, is amended—

(1) by inserting "collection of information requirement," after "reporting or recordkeeping requirement," in paragraph (11);

(2) by redesignating paragraphs (13) through (16) as paragraphs (14) through (17), respectively; and

(3) by inserting after paragraph (12) the following new paragraph:

"(13) the term 'information resources management' means the planning, budgeting, organizing, directing, training, promoting, controlling, and management activities associated with the burden, collection, creation, use, and dissemination of information by agencies, and includes the management of information and related resources such as automatic data processing equipment (as such term is defined in section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a));".

OFFICE OF INFORMATION AND REGULATORY AFFAIRS

SEC. 813. (a) Section 3503(b) of title 44, United States Code, is amended to read as follows:

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information policy and shall report directly to the Director.".

(b) The amendment made by this section, insofar as it relates to appointment of the Administrator of the Office of Information and Regulatory Affairs, shall take effect on the earlier of—

(1) January 20, 1989; or

(2) the date on which a vacancy in that Office first occurs after the date of enactment of this Act.

AUTHORITY AND FUNCTIONS OF DIRECTOR

SEC. 814. (a) Section 3504(a) of title 44, United States Code, is amended to read as follows:

"(a) The Director shall develop and implement Federal information policies, principles, standards, and guidelines and shall provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy and security of records, agency sharing and dissemination of information, and acquisition and use of automatic data processing, telecommunications, and other information technology for managing information resources. The authority of the Director under this section shall be exercised consistent with applicable law.".

(b) Section 3504(d) of such title is amended to read as follows:

"(d) The statistical policy and coordination functions of the Director shall include—

"(1) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;

"(2) reviewing budget proposals of agencies to assure that the proposals are consistent with such long-range plans;

"(3) coordinating, through the review of budget proposals and as otherwise provided in this chapter, the functions of the Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;

"(4) developing and implementing Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods, statistical data classification, statistical information presentation and dissemination, and such statistical data sources as may be required for the administration of Federal programs;

"(5) evaluating statistical program performance and agency compliance with Government-wide policies, principles, standards, and guidelines;

"(6) integrating the functions described in paragraphs (1) through (5) of this subsection with the other information resources management functions specified in this chapter; and

"(7) appointing a chief statistician who is a trained and experienced professional statistician to carry out the functions described in paragraphs (1) through (6) of this subsection.".

(c) Section 3504(g) of such title is amended by striking out "and telecommunications" each place it appears and inserting in lieu thereof "(including telecommunications)".

ASSIGNMENT OF TASKS AND DEADLINES

SEC. 815. Section 3505 of title 44, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2)(E);

(2) by striking out paragraph (3)(E) and inserting in lieu thereof the following:

"(E) develop and annually revise, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757, 759) and the purposes of this chapter; and";

(3) by striking out the period at the end of paragraph (3)(F) and inserting in lieu thereof a semicolon; and

(4) by inserting after paragraph (3) the following new paragraphs:

"(4) upon the enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) set a goal to reduce, by September 30, 1987, the burden of Federal collections of information existing on September 30, 1986, by at least 5 percent; and

"(B) for the fiscal year beginning on October 1, 1987, and each of the next two fiscal years, set a goal to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;

"(5) maintain a comprehensive set of information resources management policies; and

"(6) within one year after the date of enactment of the Paperwork Reduction Reauthorization Act of 1986—

"(A) issue, in consultation with the Administrator of General Services, principles, standards, and guidelines to implement the policies described in paragraph (5);

"(B) report to the Congress on the feasibility and means of enhancing public access, including access by electronic media, to information relating to information collection requests required by this chapter to be made available to the public; and

"(C) identify further initiatives to reduce the burden of Federal collections of information associated with the administration of Federal grant programs.".

FEDERAL AGENCY RESPONSIBILITIES

SEC. 816. Section 3506(c) of title 44, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) systematically inventory its major information systems and periodically review its information resources management activities;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new paragraphs:

"(6) implement applicable Government-wide and agency information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, statistical activities, records management activities, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

"(7) periodically evaluate and, as needed, improve, the accuracy, completeness, and reliability of data and records contained within Federal information systems; and

"(8) develop and annually revise a 5-year plan, in accordance with appropriate guidance provided by the Director, for meeting the agency's information technology needs.".

PUBLIC INFORMATION COLLECTION ACTIVITIES

SEC. 817. (a) Section 3507(a)(2)(B) of title 44, United States Code, is amended by inserting before the semicolon the following: "and setting forth a title for the information collection request, a brief description of the need for the information and its proposed use, a description of the likely respondents and proposed frequency of response to the information collection request, and an estimate of the burden that will result from the information collection request".

(b) Section 3507(b) of such title is amended by inserting ", including an explanation thereof," after "decisions" in the first sentence.

(c) Section 3507 of such title is further amended by adding at the end thereof the following new subsection:

"(h) Any written communication to the Administrator of the Office of Information and Regulatory Affairs or to any employee thereof from any person not employed by the Federal Government or from an agency concerning a proposed information collection request, and any written communication from the Administrator or employee of the Office to such person or agency concerning such proposal, shall be made available to the public. This subsection shall not require the disclosure of any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.".

FEDERAL INFORMATION LOCATOR SYSTEM

SEC. 818. Section 3511(a) of title 44, United States Code, is amended to read as follows:

"(a) There is established in the Office of Information and Regulatory Affairs a Federal Information Locator System (hereafter in this section referred to as the 'system') which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The system shall serve as the authoritative register of all information collection requests, and shall be designed so as to assist agencies and the public in locating existing Government information derived from information collection requests.".

RESPONSIVENESS TO CONGRESS

SEC. 819. Subsection (a) of section 3514 of title 44, United States Code, is amended—

(1) by striking out "and" after the semicolon in paragraph (7);

(2) by striking out the period at the end of paragraph (8)(C) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (8) the following new paragraph:

"(9)(A) a summary of accomplishments in the improvement of, and planned initiatives to improve, Federal information resources management within agencies;

"(B) a detailed statement with respect to each agency of new initiatives to acquire information technology to improve such management; and

"(C) an analysis of the extent to which the policies, principles, standards, and guidelines issued and maintained pursuant to paragraphs (5) and (6) of section 3505 of this title promote or deter such new initiatives; and

"(10) with respect to the statistical policy and coordination functions described in section 3504(d) of this title—

"(A) a description of the specific actions taken, or planned to be taken, to carry out each such function;

"(B) a description of the status of each major statistical program, including information on—

"(i) any improvements in each such program;

"(ii) any program which has been reduced or eliminated; and

"(iii) the budget for each such program for the previous fiscal year and the fiscal year in progress and the budget proposed for each such program for the next fiscal year; and

"(C) a description and summary of the long-range plans currently in effect for the major Federal statistical activities and programs.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 820. Section 3520 of title 44, United States Code, is amended to read as follows:

"§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $5,500,000 for each of the fiscal years 1987, 1988, and 1989.

($5,500,000 authorization, fiscal years 1987, 1988, and 1989)

"(b) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section. No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.

"(c) Funds appropriated pursuant to subsection (a) may not be used to carry out any function or activity which is not specifically authorized or required by this chapter, but funds so appropriated may be used for necessary expenses of a function or activity which is so authorized or required, such as hire of passenger motor vehicles and services authorized by section 3109 of title 5, United States

Code. For the purposes of this subsection, the review of a rule or regulation is specifically authorized or required by this chapter only to the extent that such review is for the sole purpose of reviewing an information collection request contained in, or derived from, such rule or regulation.".

PART B—AMENDMENTS TO THE BROOKS ACT

INFORMATION TECHNOLOGY FUND

SEC. 821. (a)(1) Section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757) is amended to read as follows:

"INFORMATION TECHNOLOGY FUND

"SEC. 110. (a)(1) There is established on the books of the Treasury and Information Technology Fund (hereinafter referred to as the 'Fund'), which shall be available without fiscal year limitation. There are authorized to be appropriated to the Fund such sums as may be required. For purposes of subsection (b), the Fund shall consist of—

"(A) the capital and assets of the Federal telecommunications fund established under this section (as in effect on December 31, 1986), which are in such fund on January 1, 1987;

"(B) the capital and assets which are in the automatic data processing fund established under section 111 of this Act (as in effect on December 31, 1986) which are in such fund on January 1, 1987; and

"(C) the supplies and equipment transferred to the Administrator under sections 111 and 205(f) of this Act, subject to any liabilities assumed with respect to such supplies and equipment.

"(2) The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall submit plans concerning such requirements and such other information as may be requested for the review and approval of the Director of the Office of Management and Budget. Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as provided by this section for the initial fiscal year determination. If approved by the Director, the Administrator shall establish rates to be charged agencies provided, or to be provided, information technology resources through the Fund consistent with such approvals. Such cost and capital requirements may include funds—

"(A) needed for the purchase (if the Administrator has determined that purchase is the least costly alternative of information processing and transmission equipment, software, systems, and operating facilities necessary for the provision of such services;

"(B) resulting from operations of the Fund, including the net proceeds of disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

"(C) which are appropriated, authorized to be transferred, or otherwise made available to the Fund.

"(b) The Fund shall—

"(1) assume all of the liabilities, obligations, and commitments of the funds described in subparagraphs (A) and (B) of subsection (a)(1); and

"(2) be available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) for efficiently providing information technology resources to Federal agencies and for the efficient management, coordination, operation, and utilization of such resources.

"(c)(1) In the operation of the Fund, the Administrator is authorized to enter into multiyear contracts for the provision of information technology hardware, software, or services for periods not in excess of five years, if—

"(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and any costs of cancellation or termination;

"(B) such contract is awarded on a fully competitive basis; and

"(C) the Administrator determines that—

"(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

"(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

"(iii) such a method of contracting will not exclude small business participation.

"(2) Any cancellation costs incurred with respect to a contract entered into under this subsection shall be paid from currently available funds in the Fund.

"(3) This subsection shall not be construed to limit the authority of the Administrator to procure equipment and services under section 201 of this Act.

"(d) Following the close of each fiscal year, the uncommitted balance of any funds remaining in the Fund, after making provision for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the general fund of the Treasury as miscellaneous receipts.

"(e) A report on the operation of the Fund shall be made annually by the Administrator to the Director of the Office of Management and Budget. Such report shall identify any proposed increases to the capital of the Fund and shall include a report on information processing equipment inventory, utilization, and acquisition.

"(f) For purposes of this section, the term 'information technology resources' includes any service or equipment which had been acquired or provided under this section or section 111 of this Act, including other information processing and transmission equipment, software, systems, operating facilities, supplies, and services related thereto, and maintenance and repair thereof.".

(2) The table of contents of the Federal Property and Administrative Services Act of 1949 is amended by striking out the item pertaining to section 110 and inserting in lieu thereof the following:

"Sec. 110. Information Technology Fund.".

(b)(1) Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is amended—

(A) by striking out subsections (c) and (d); and

(B) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), and (g), respectively.

(2) Section 3504(g) of title 44, United States Code, is amended—

(A) by striking out "section 111(f)" in paragraph (1) and inserting in lieu thereof "section 111(d)"; and

(B) by striking out "section 111(g)" in paragraph (2) and inserting in lieu thereof "section 111(e)".

(3) Section 3(b) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3503 note) is amended by striking out "section 111" and inserting in lieu thereof "sections 110 and 111".

APPLICATION OF ACT

SEC. 822. (a) Section 111(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)) is amended—

(1) by inserting "(1)" after "SEC. 111. (a)"; and

(2) by adding at the end thereof the following:

"(2)(A) For purposes of this section, the term 'automatic data processing equipment' means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching interchange, transmission, or reception, of data or information—

"(i) by a Federal agency, or

"(ii) under a contract with a Federal agency which—

"(I) requires the use of such equipment, or

"(II) requires the performance of a service or the furnishing of a product which is performed or produced making significant use of such equipment.

"(B) Such term includes—

"(i) computers;

"(ii) ancillary equipment;

"(iii) software, firmware, and similar procedures;

"(iv) services, including support services; and

"(v) related resources as defined by regulations issued by the Administrator for General Services.

"(3) This section does not apply to—

"(A) automatic data processing equipment acquired by a Federal contractor which is incidental to the performance of a Federal contract;

"(B) radar, sonar, radio, or television equipment;

"(C) the procurement by the Department of Defense of automatic data processing equipment or services if the function, operation, or use of which—

"(i) involves intelligence activities;

"(ii) involves cryptologic activities related to national security;

"(iii) involves the command and control of military forces;

"(iv) involves equipment which is an integral part of a weapon or weapons system; or

"(v) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management; or

"(D) the procurement of automatic data processing equipment or services by the Central Intelligence Agency.".

(b) Section 111(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) If the Administrator finds that a senior official of an agency designated pursuant to section 3506(b) of title 44, United States Code, is sufficiently independent of program responsibility and has sufficient experience, resources, and ability to carry out fairly and effectively procurements under this section, the Administrator may delegate to such official the authority to lease, purchase, or maintain automatic data processing equipment pursuant to paragraph (2) of this subsection, except that any such delegation shall not relieve the Administrator of the responsibilities assigned to the Administrator under this section. A delegation by the Administrator under this subsection shall not preclude the Administrator from reviewing individual procurement requests if the Administrator determines that circumstances warrant such a review. The Administrator shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Administrator, any official to whom approval authority has been delegated under this subsection shall comply fully with the rules and regulations promulgated by the Administrator .".

REVIEW OF DELEGATION DETERMINATIONS

SEC. 823. Section 111(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) by striking out "specifically affecting them or the automatic data processing equipment or components used by them" and inserting in lieu thereof "whether or not the automatic data processing equipment will be provided by the Administrator or whether or not the authority to lease, purchase, or maintain the equipment will be delegated"; and

(2) by striking out the last sentence and inserting in lieu thereof the following: "If the Administrator denies an agency procurement request such denial shall be subject to review and decision by the Director of the Office of Management and Budget, unless the President otherwise directs. Such review and decision shall be made only on the basis of a written appeal, and such written appeal, together with any written communications to the Administrator or any officer or employee of the Office of Management and Budget concerning such denial shall be made available to the public.".

BOARD OF CONTRACT APPEALS PROCEEDINGS

SEC. 824. Section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)) (as redesignated by section 821(b)(1) of this Act) is amended—

(1) in the first sentence of paragraph (1) thereof, by striking out "in connection with any procurement conducted under the authority of this section" and inserting in lieu thereof "in connection with any procurement which is subject to this section";

(2) in such sentence, by striking out "conducted under delegations" and inserting in lieu thereof "subject to delegation"; and

(3) by inserting before the last sentence of such paragraph the following new sentences: "The authority of the board to conduct such review shall include the authority to determine whether any procurement is subject to this section and the authority to review regulations to determine their consistency with applicable statutes.

A proceeding, decision, or order of the board pursuant to this subsection shall not be subject to interlocutory appeal or review."; and

(4) in paragraph (5) thereof, by adding at the end of subparagraph (A) the following: "The board may consider any decision, determination, opinion, or statement made by the Director of the Office of Management and Budget or any officer of any other Federal agency regarding applicability of this section to a particular procurement, and may request the advice of the Director or such officer with regard to such applicability, but shall not be bound by any such decision, determination, opinion, or statement when determining whether a procurement is subject to this section.".

CONFORMING AMENDMENT

SEC. 825. Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is further amended by striking out "Bureau of the Budget" each place it appears and inserting in lieu thereof "Office of Management and Budget".

PART C—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY OF GENERAL SERVICES BOARD OF CONTRACT APPEALS

SEC. 831. Section 2713 of the Deficit Reduction Act of 1984 (98 Stat. 1184) is amended by striking out subsection (b).

CLARIFICATION OF AUTHORITY OF GENERAL SERVICES ADMINISTRATOR

SEC. 832. Section 101 of Federal Property and Administrative Services Act of 1949 (40 U.S.C. 751) is amended by adding at the end thereof the following:

"(f) The Administrator shall have authority to prescribe regulations to carry out this Act.".

EFFECTIVE DATE

SEC. 833. This title and the amendments made by this title shall take effect on the date of enactment of this Act, except as provided in section 813(b) and except that the provisions of section 821 and the amendments made by such section shall take effect on January 1, 1987.

[*Total, Treasury, Postal Service and General Government Appropriations, 1987:*

[*New budget (obligational) authority*	*$13,642,799,800.*]
[*Limitations*	*2,447,956,000.*]

(n) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1986, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1986, at the current rate or as otherwise provided herein: *Provided*, That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1986 unless otherwise provided for herein:

Refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act, part B of title III of the Refugee Act of 1980, and section 501 of the Refugee Education Assistance Act of 1980, except that the amount necessary for continuing such activities at the current rate shall be reduced, on an activity by activity basis, by the total of amounts of prior appropriations remaining available to the States for conducting any such activities, other than education assistance for children and social services, in fiscal year 1987 or thereafter, and shall not be available for conducting any such activities other than education assistance for children and social services in any fiscal year after 1987;

[1] $361,633,000 *(Refugee and Entrant Assistance)*

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[1] Executive branch estimate of the amount available under the "current rate" for "Refugee and Entrant Assistance".

[1]ACTIVITIES AUTHORIZED BY THE FOLLOW THROUGH ACT [2]$7,177,000 *(Special Programs)*

SEC. 101. Economic Development Administration, notwithstanding
any other provision of this Joint Resolution, for additional amounts
for "Economic development assistance programs", $1,000,000, to 1,000,000
remain available until expended, for a grant to the City of Portland,
Oregon, for preliminary engineering, design and other related
activities associated with expansion of the Orgeon Museum of Science
and Industry; and $1,000,000, to remain available until expended, 1,000,000
for a grant to improve the existing County Road in Sumter
County, Alabama, from the Mississippi State line to Alabama Highway
No. 17 (also known as Scooba Road); and $7,500,000, to remain 7,500,000
available until expended, for a grant to continue economic development
facilities and related infrastructure activities of the Fort Worth Stockyards Project at full Federal expense: *Provided*, That in addition, the Secretary of the Army, acting through the Chief of Engineers, using any funds heretofore, herein, and hereafter available to the Corps of Engineers, is authorized and directed to develop at full Federal expense detailed plans and specifications and to construct measures in Tarrant County, Texas, to eliminate flood damage in the historical stockyards area along Tony's Creek and Marine Creek.

[*Total, Department of Commerce, $9,500,000.*]

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1986, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1987, whichever first occurs. *(September 30, 1987 expiration date)*

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SEC. 103. Appropriations made and authority granted pursuant to this joint resolution for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 108. (a) AMENDMENTS TO FOOD SECURITY ACT OF 1985.—Effective with respect to each of the 1987 through 1990 crops, section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by—

(1) striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) For each of the 1987 through 1990 crops, the total amount of deficiency payments (excluding any deficiency payments described in paragraph (2)(B)(I)(iv) of this section) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, extra long staple cotton, and rice may not exceed $50,000.

"(2)(A) For each of the 1987 through 1990 crops, the total amount of payments set forth in subparagraph (B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, rice, honey, and (with respect to clause (iii)(II) of subparagraph (B)) other commodities, when combined with payments for such crop described in paragraph (1), shall not exceed $250,000.

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[1] Printed in error as a center head. Should be the last paragraph of subsection (n) on previous page.

[2] Executive branch estimate of the amount available under the "current rate" for "Follow Through" under the "Special Programs Account".

"(B) As used in subparagraph (A), the term 'payments' means—

"(i) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation;

"(ii) any disaster payments under one or more of the annual programs for a commodity established under the Agricultural Act of 1949;

"(iii)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, or honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949, or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

"(iv) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1) or 105C(c)(1), respectively, of the Agricultural Act of 1949 as the result of a reduction of the loan level for such crop under section 107D(a)(4) or 105C(a)(3) of such Act;

"(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949; and

"(vi) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of the Agricultural Act of 1949.

Such terms shall not include loans or purchases, except as specifically provided for in this paragraph.

"(C) The total amount of loans on a crop of honey that a person may have outstanding at any one time under the annual program established for such crop under the Agricultural Act of 1949 may not exceed $250,000 less the amount of payments, as described in paragraph (1) and subparagraphs (A) and (B) of this paragraph, received by such person for the crop year involved.

"(3) Notwithstanding the foregoing provisions of this section, if the Secretary of Agriculture determines that any of the limitations provided for in paragraph (2) will result in a substantial increase in the number or dollar amount of loan forfeitures for a crop of a commodity, will substantially reduce the acreage taken out of production under an acreage reduction program for a crop of a commodity, or will cause the market prices for a crop of a commodity to fall substantially below the effective loan rate for the crop, the Secretary shall adjust upward such limitation, under such terms and conditions as the Secretary determines appropriate, as necessary to eliminate such adverse effect on the program involved.";

(2) adding at the end of subparagraph (A) of paragraph (5) the following: "Such regulations shall provide that the term 'person' does not include any cooperative association of producers that markets commodities for producers with respect to the commodities so marketed for producers."; and

(3) in paragraph (6), striking out "lands owned" and inserting in lieu thereof "lands or animals owned", and inserting after "lands are farmed" the following: "or animals are husbanded".

(b) Application of Amendments.—The amendments made by subsection (a) shall not apply with respect to any payment or loan received under any agreement or contract made before the date of enactment of this Act.

(c) **Revision of Regulations.**—

(1)(A) The Secretary of Agriculture shall review the regulations in effect on the date of enactment of this Act that define "person" under section 1001 of the Food Security Act of 1985 and related regulations in effect on such date otherwise affecting the payment limitations under such section, to determine ways in which such regulations can be revised to better ensure the fair and reasonable application of limitations and eliminate fraud and abuse in the application of such payment limitations.

(B) The Secretary also shall review the amendments to section 1001 of the Food Security Act of 1985 made by this section.

(2) Based on the reviews conducted under paragaph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, not later than March 1, 1987, a report on such reviews and—

(A) with respect to the matters reviewed under paragraph (1)(A), proposed regulations or amendments to regulations, to take effect not earlier than October 1, 1987, that will meet the object with respect to limitations specified in paragraph (1)(A); and

(B) with respect to the matters reviewed under paragraph (1)(B), recommendations on legislative changes to section 1001 of the Food Security Act of 1985 that the Secretary determines are necessary or appropriate.

Sec. 110. The Interagency Committee on Cigarette and Little Cigar Fire Safety, established pursuant to Public Law 98-567, shall have an additional six months to complete its final technical report and submit policy recommendations to the Congress.

Sec. 111. (a) Any individual who—

(1) on the day before the date on which food services operations for the House of Representatives are transferred by contract to a corporation or other person—

(A) is a congressional employee (as defined in section 2107 of title 5, United States Code), other than an employee of the Architect of the Capitol, engaged in providing such food services under the administrative control of the Architect of the Capitol; and

(B) is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(2) as a result of such contract, ceases to be an employee described in paragraph (1); and

(3) becomes employed to provide such food services under contract, including a successor contract;

may, for purposes of the provisions of law specified in subsection (b), elect to be treated, for so long as such individual continues to be employed (without a break in service) as described in paragraph (3), as if such individual had not ceased to be an employee described in paragraph (1). Such election shall be made on or before the day referred to in paragraph (1) and shall be available only to an individual whose transition from the employment described in paragraph (1) to the employment described in paragraph (3) takes place without a break in service.

(b) The provisions of law referred to in subsection (a) are—

(1) subchapter III of chapter 83 of title 5, United States Code (including section 8339(m) of such title (which shall be applied, when an employee retires on an immediate annuity or dies, as if the employment at the time of retirement or death were under a formal leave system), with respect to unused sick leave to the credit of an employee on the day referred to in subsection (a)(1));

(2) chapter 84 of title 5, United States Code; and

(3) title III of the Federal Employees' Retirement System Act of 1986.

(c)(1) At the earliest practicable opportunity, the Director of the Office of Personnel Management shall, in consultation with the Architect of the Capitol, prescribe regulations to carry out this section with respect to matters within the jurisdiction of the Office, including regulations under which—

(A) an individual who makes an election under subsection (a) shall pay into the Civil Service Retirement and Disability Fund any employee contributions which would be required if such individual were a Congressional employee; and

(B) the employer furnishing food services under a contract referred to in subsection (a) shall pay into the Civil Service Retirement and Disability Fund amounts equal to any agency contributions which would be required if the individual were a Congressional employee.

(2) At the earliest practicable opportunity, the Executive Director of the Federal Retirement Thrift Investment Board shall, in consultation with the Architect of the Capitol, prescribe regulations to carry out this section with respect to matters within the jurisdiction of the Board.

Sec. 112. Notwithstanding any other provision of law, none of the funds in this or any other Act shall be used by the Coast Guard to participate in any demonstration project or to implement in any way the extension of the navigation season on the Great Lakes or the St. Lawrence River without written notification to and prior approval of the House and Senate Committees on Appropriations: *Provided*, That nothing in this section shall preclude the Coast Guard from performing routine search and rescue operations.

Sec. 113. Within 30 days of enactment, the Federal Aviation Administration shall initiate rulemaking action to consider the question of requiring the installation and carriage of operating transponders with automatic altitude reporting capability for all aircraft operating in terminal airspace where Federal Aviation Administration provides radar service, and in all controlled airspace above a minimum altitude to be determined by the Federal Aviation Administration. This regulation shall be effective on the earliest feasible date.

Sec. 114. (a) The Secretary of Transportation shall approve the construction of Interstate Highway H-3 between the Halawa interchange to, and including the Halekou interchange (a distance of approximately 10.7 miles), and such construction shall proceed to completion notwithstanding section 138 of title 23 and section 303 of title 49, United States Code.

(b) Notwithstanding section 102 of this joint resolution the provisions of subsection (a) shall constitute permanent law.

SEC. 115. GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of

leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $2,385,856,000 of which (1) not to exceed $125,548,000 shall remain available until expended for construction of additional projects as authorized by law at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

[1] *($2,385,856,000) (limitation on availability)*

New Construction:
  Alabama:
    Jasper, Federal Building, $3,376,000
  New Jersey:
    Paterson, Federal Building (site and design), $1,500,000
  New Mexico:
    Columbus, Border Station, $2,680,000
  Pennsylvania:
    Wilkes-Barre, Federal Building (Social Security Administration), $20,672,000
  South Carolina:
    Columbia, Federal Building, Courthouse, Claim, $1,057,000
    Construction Projects, less than $500,000, $1,000,000:
Purchase:
  New York:
    Wellesley Island, Border Station, $1,925,000
  Other Selected Purchases, including options to purchase, $93,338,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $270,222,000, which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:
  Arizona:
    Phoenix, Federal Building, $762,000

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[1] Included in total for General Services Administration (see p. 487, this volume)

California:
  San Diego, Old Federal Building, $1,576,000
  San Diego, Federal Building, Courthouse, $1,178,000
  San Francisco, Post Office, Courthouse, $1,683,000
  San Francisco, Burton Federal Building, $20,000,000
Colorado:
  Denver, Federal Building, Courthouse, $8,540,000
District of Columbia:
  Federal Building, New Post Office, $1,700,000
  Federal Building #6, $1,213,000
  Federal Building #8, $1,886,500
  Federal Building #9, $1,712,500
  Federal Building #10A, $1,121,000
  General Accounting Office, $3,552,000
  Justice, $599,000
  State, $2,765,000
  Steam Distribution System, $8,796,000
Hawaii:
  Honolulu, Kalanianaole Federal Building, Courthouse, $1,850,000
Illinois:
  Chicago, Railroad Retirement Board, $5,200,000
Kentucky:
  Louisville, Post Office, Courthouse, $1,500,000
Missouri:
  Kansas City, Federal Building, $4,408,000
  St. Louis, Federal Building (Mart), Phase I, $20,000,000
  Kansas City, 601 E. 12th, $997,000
  Kansas City, 1500 Bannister, $2,560,000
  St. Louis, 4300 Goodfellow, $2,176,000
Nevada:
  Las Vegas, Federal Building, Courthouse, $2,197,000
Oregon:
  Portland, Federal Building, $12,069,000
Texas:
  Dallas, Federal Building, $1,600,000
  Dallas, Terminal Annex, $4,600,000
Utah:
  Salt Lake City, Post Office, Courthouse, $675,000
Virginia:
  Arlington, Pentagon, $7,000,000
Wisconsin:
  Milwaukee, Federal Building, Courthouse, $2,799,000
Wyoming:
  Casper, Federal Building, Courthouse, $1,923,000
Minor Repairs and Alterations, $141,584,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1988, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $131,442,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $985,000,000 for rental of space; (5) not to exceed $753,219,000 for real property operations; (6) not to exceed $57,090,000 for program direction and centralized services; and (7) not to exceed $63,335,000 for design and construction services which shall remain available until expended: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further*, That the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 250,000 sq. ft., constructed or acquired by or on behalf of the State of Florida or a political subdivision thereof, by lease not to exceed 30 years, in Miami, Florida, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further*, That the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire a building not to exceed 600,000 sq. ft., constructed or acquired by or on behalf of the State of Illinois or a political subdivision thereof, by lease not to exceed 30 years, in Chicago Illinois, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease: *Provided further*, That revenues and collections and any other sums accruing to this fund during fiscal year 1987 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6) in excess of $2,385,856,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts: *Provided further*, That notwithstanding this or any other provision of this Act, Section 623 of the Treasury, Postal Service, and General Government Appropriations Act as contained in this Act shall apply only to the rural electrification program in the State of Alaska.

Notwithstanding any other provisions of this joint resolution, no funds shall be appropriated for the procurement of T-46 aircraft in fiscal year 1987. Funds appropriated in fiscal year 1986 for the procurement of T-46 aircraft shall be available to conduct the competitive fly-off set forth in section 145 of the fiscal year 1987 Defense Authorization Act: *Provided*, That such funds shall not be available for the modification or development of any candidate aircraft for the purposes of that competition. Such competition shall be completed by January 1, 1988. The Air Force shall proceed immediately to prepare for the required competition mandated by section 145: *Provided further*, That section 2304 of said Act (S. 2638) shall not be interpreted to apply to any funds provided for operation and maintenance, design funds, or military construction funds for other than major military construction projects at any military installation or facility.

SEC. 144. (a) CIVILIAN PAY RAISE.—(1) Notwithstanding any other provision of law, in the case of fiscal year 1987, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1987.

(3)(A) Notwithstanding any other provision of law, determinations relating to amounts to be appropriated in order to provide for the adjustment described in paragraph (1) shall be made based on the assumption that the various departments and agencies of the Government will, in the aggregate, absorb 50 percent of the increase in total pay for fiscal year 1987.

(B) Subparagraph (A) does not apply with respect to the Department of Defense or pay for employees of the Department of Defense.

(4) For purposes of this subsection—

(A) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such fiscal year;

(B) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

(C) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b) MILITARY PAY RAISE.—(1) Any adjustment required by section 1009 of title 37, United States Code, in elements of the compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made.

(2) The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.

SEC. 145. (a)(1)(A) Since the Department of State has determined that "In the area of human rights, major discrepancies persist between Romania's Constitution, law, public pronouncements and international commitments on the one hand, and the civil liberties and human rights allowed by the regime on the other";

(B) Since it is apparent from numerous accounts by the State Department, congressional delegations, and human rights organizations that Romanian citizens are being arbitrarily harassed, interrogated, and arrested by government authorities for exercising their civil and religious liberties;

(C) Since Romania's harassment of religious believers extends to the arrest of persons for distributing Bibles and the destruction of places of worship, including most recently the country's largest Seventh Day Adventist Church and the Sephardic synagogue in Bucharest;

(D) Since the Romanian government has imposed severe limits on the freedom of Hungarians and other ethnic minorities to express and maintain their cultural heritage, and has attempted to systematically eliminate Hungarian churches, schools, traditions, and even the Hungarian language from Romanian society;

(E) Since the United States' extension of Most-Favored-Nation trade status to Romania, although linked in the Jackson-Vanik Amendment to freedom of emigration from that country, might be misconstrued as an endorsement of that nation's abusive internal practices:

(2) Now, therefore be it declared by the Senate—

The Congress strongly condemns Romania's continued hostility to the exercise of religious, political and cultural rights, and calls upon Romania to cease such persecution, to halt its destruction of places of worship, and to lift its ban on the production and distribution of Bibles and other religious literature.

(c) It is the sense of the Congress that the President should consider the following factors in shaping our bilateral relations with Romania:

(1) whether Romania is making substantial progress in halting its persecution of Romanian citizens on religious and political grounds and its repression of Hungarians and other ethnic minorities; and

(2) whether Romania is fulfilling its commitments to permit the printing of several thousand Bibles in Romania and to provide for and preserve places of worship.

(d) The Secretary of State shall transmit a copy of this resolution to the head of the diplomatic mission of Romania to the United States and to Romania's permanent representative to the United Nations.

SEC. 146. Such amounts as may be necessary of the Polish currencies held by the United States which have been generated by the sale to Poland of surplus United States dairy products shall be available for construction and renovation projects to be undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.

SEC. 147. Section 61(a) of the Arms Export Control Act is amended by adding at the end thereof the following: "The President may waive the requirement of paragraph (3) with respect to a lease which is made in exchange with the lessee for a lease on substantially reciprocal terms of defense articles for the Department of Defense, except that this waiver authority—

"(A) may be exercised only if the President submits to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate, in accordance with the regular notification procedures of those Committees, a detailed notification for each lease with respect to which the authority is exercised; and

"(B) may be exercised only during the fiscal year 1987 and only with respect to one country, unless the Congress hereafter provides otherwise.

The preceding sentence does not constitute authorization of appropriations for payments by the United States for leased articles.".

SEC. 148. Notwithstanding any other provisions of title 23, the Secretary of Transportation shall carry out the following project:

I–75 corridor in Kenton County, Kentucky, to examine the feasibility of unmanned radar units for safety purposes.

SEC. 149. Notwithstanding any other provision of law or this joint resolution, assistance to Bolivia shall be provided in accordance with the provisions of the Anti-Drug Abuse Act of 1986, as passed by the Senate on September 30, 1986.

SEC. 150. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "June 30, 1985," and inserting in lieu thereof "June 30, 1987,".

(b) Section 445(d) of such Act is amended by striking out "June 30, 1984," and inserting in lieu thereof "June 30, 1987," and by striking out "June 30, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 151. (a) Notwithstanding any other provision of law, the Administrator of General Services is authorized during fiscal year 1987 to accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives, respectively, with funds from the General Supply Fund established under section 109 of the Federal Property and Administrative Services Act of 1949. The amount of each such periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Clerk of the House of Representatives, as appropriate.

(b) Subsection (a) applies to reimbursements to the General Supply Fund for any equipment purchased for the Senate or the House of Representatives before, on, or after the date of enactment of this section.

SEC. 152. Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops".

SEC. 153. (a) The Congress finds that the activities conducted under the authorities of the Foreign Assistance Act of 1961 have contributed greatly to the alleviation of human suffering and the promotion of economic development in the recipient countries. The Congress finds further that changing circumstances in the developing countries and changing availability of resources from the United States require that a comprehensive review of the activities under that Act be undertaken.

(b) It is, therefore, the sense of the Congress that the President should undertake a comprehensive review of the activities authorized by the Foreign Assistance Act of 1961 and should send to the Committees on Appropriations and to the Senate Foreign Relations Committee and the House Foreign Affairs Committee by February 1, 1987, his recommendations for amending the Act or otherwise modifying those activities.

SEC. 154. (a) Section 502(a) of title 21 of the District of Columbia Code is amended by striking out the last sentence and inserting in lieu thereof "Eight of the members of the Commission shall be health care professionals who are psychiatrists, or doctoral level psychologists, practicing in the District of Columbia who have had not less than five years' experience in the treatment of mental illnesses.".

(b) Section 502(c) of title 21 of the District of Columbia Code is amended to read as follows:

"(c) Members of the Commission who are health care professionals shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the court, so that at any one time the Commission shall consist of the chairman and two members who are health care professionals. Members of the Commission who are health care professionals may practice their profession during their tenure of office, but may not participate in the disposition of a case in which they have rendered professional service or advice.".

(c) The members of the District of Columbia Commission on Mental Health on the date of the enactment of this joint resolution shall serve the unexpired portions of their terms as members of such commission.

(d) The provisions of this joint resolution shall take effect on the date of enactment.

SEC. 163. Notwithstanding any legislative or judicial requirement, the Office of Surface Mining Reclamation and Enforcement may delay the finalization of the proposed rulemaking amending Parts 773 and 778 of the Code of Federal Regulations as published in the Federal Register on April 5, 1985 (50 FR 13724) until March 31, 1987.

TITLE II

OMNIBUS DRUG SUPPLEMENTAL APPROPRIATIONS ACT OF 1987

CHAPTER I

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States Attorneys", $31,000,000. $31,000,000

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $17,000,000. 17,000,000

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", $5,000,000. 5,000,000

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forefeiture Act of 1984 and the Anti-Drug Abuse Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law, such sums as may be necessary to be derived from the Department of Justice Assets Forefeiture Fund 75,000,000 (*indefinite*)

[*Total, Legal Activities:*
[*New budget (obligational) authority* .... *$128,000,000.*]
[*Appropriations, definite* .... *53,000,000.*]
[*Appropriations, indefinite* .... *75,000,000.*]

FEDEREAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses". $2,000,000. 2,000,000

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $60,000,000. 60,000,000

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $28,000,000. 28,000,000

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $96,500,000. to remain available until expended $96,500,000

[*Total, Federal Prison System, $124,500,000.*]

Office of Justice Programs

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", $225,000,000, to remain available until expended, for grants for drug law enforcement programs, to be used only to carry out provisions of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by H.R. 5484 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law: *Provided*, That $2,000,000 shall be available only to carry out a pilot prison capacity program. 225,000,000

[*Total, Department of Justice:*
[*New budget (obligational) authority* .... *$539,500,000.*]
[*Appropriations, definite* .... *464,500,000.*]
[*Appropriations, indefinite* .... *75,000,000.*]

THE JUDICIARY

Courts of Appeals District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $12,000,000, to carry out the provisions of the Drug and Alcohol Dependent Offenders Treatment Act of 1986 as passed the House of Representatives on October 8, 1986 or similar legislation if enacted into law. 12,000,000

DEFENDER SERVICES

For an additional amount for "Defender services", $18,000,000, to remain available until expended. 18,000,000

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $7,500,000, to remain available until expended. 7,500,000

[*Total, the Judiciary, $37,500,000.*]

RELATED AGENCY

United States Information Agency

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, to be available only for drug education programs abroad. 2,000,000

[*Total, chapter I:*
[*New budget (obligational) authority* .... *$579,000,000.*]
[*Appropriations, definite* .... *504,000,000.*]
[*Appropriations, indefinite* .... *75,000,000.*]

CHAPTER II

FOREIGN ASSISTANCE

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

Education and Human Resources Development, Development Assistance:

For an additional amount to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, $3,000,000: *Provided*, That these funds shall be used pursuant to section 126(b)(2) of the Foreign Assistance Act of 1961 for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries: *Provided further*, That funds made available by this paragraph shall be available through the regular notification procedures of the Committee on Appropriations.

$3,000,000

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For an additional amount to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $53,000,000: *Provided*, That of this amount $45,000,000 shall be made available only in accordance with the provisions of section 2001(2) of H.R. 5484, as passed in the Senate on September 30, 1986: *Provided further*, That funds made available by this paragraph shall be available through the regular notification procedures of the Committee on Appropriations.

53,000,000

[*Total, chapter II, $56,000,000.*]

CHAPTER III

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $1,000,000.

1,000,000

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $10,000,000: *Provided*, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988.

10,000,000

CONSTRUCTION

For an additional amount for "Construction", $12,500,000, to remain available until expended. $12,500,000

[Total, Bureau of Indian Affairs, $22,500,000.]
[Total, Department of the Interior, $23,500,000.]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

For an additional amount for "Indian health services", $16,200,000: *Provided*, That funds made available to tribes and tribal organizations through grants or contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1988. 16,200,000

INDIAN HEALTH FACILITIES

For an additional amount for "Indian health facilities", $5,500,000, to remain available until expended. 5,500,000

[Total, Department of Health and Human Services, $21,700,000.]
[Total, chapter III, $45,200,000.]

CHAPTER IV

DEPARTMENT OF LABOR

Departmental Management

SALARIES AND EXPENSES

For an additional amount for the development of information on drug abuse in the workplace, $3,000,000 to remain available until September 30, 1988. 3,000,000

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by titles III, V and XIX of the Public Health Service Act, $262,000,000 to remain available until September 30, 1988. 262,000,000

DEPARTMENT OF EDUCATION

SPECIAL PROGRAMS

For an additional amount for carrying out drug abuse education and prevention activities, $200,000,000 to remain available until September 30, 1988, of which $5,500,000 shall be used for the development of audio-visual materials for distribution to local educational authorities. 200,000,000

RELATED AGENCY

Action

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $3,000,000. $3,000,000

[*Total, chapter IV, $468,000,000.*]

CHAPTER V

DEPARTMENT OF TRANSPORTATION

Coast Guard

OPERATING EXPENSES

For an additional amount for "Operating expenses", $39,000,000. 39,000,000

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements", $89,000,000, to remain available until September 30, 1991. 89,000,000

[*Total, chapter V, $128,000,000.*]

CHAPTER VI

DEPARTMENT OF TREASURY

U.S. Customs Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $44,120,000. 44,120,000

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $93,131,000, of which up to $10,000,000 is available for the U.S.—Bahamas Task Force; $25,000,000 is available for establishment of command, control, communications, and intelligence (C-31) centers under the exclusive control of the U.S. Customs Service; and $9,131,000 for additional modification of Customs P-3 aircraft with 360 degree radar, such sums to remain available until expended. 93,131,000

CUSTOMS FORFEITURE FUND

For an additional amount for the "Customs Forfeiture Fund", $10,000,000, to be derived from deposits in the Fund. 10,000,000

[*Total, United States Customs Service, $147,251,000.*]

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000. 5,000,000

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the Government of Puerto Rico, $7,800,000, to remain available until expended.	$7,800,000

[*Total, Department of the Treasury, $160,051,000.*]

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE CONFERENCE ON DRUG ABUSE AND CONTROL

SALARIES AND EXPENSES

For necessary expenses of the White House Conference on Drug Abuse and Control, $5,000,000.	5,000,000

[*Total, chapter VI, $165,051,000.*]

CHAPTER VII

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $15,000,000.	15,000,000

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $12,615,000.	12,615,000

[*Total, operation and maintenance, $27,615,000.*]

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $18,000,000.	18,000,000

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $183,000,000.	183,000,000

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $71,385,000.	71,385,000

[*Total, Procurement, $272,385,000.*]

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, all purchases, leases, or other uses of military type equipment acquired from appropriations provided in this chapter shall be procured under existing procedures established by the Department of Defense.

[*Total, chapter VII, $300,000,000.*]

This title may be cited as the "Omnibus Drug Supplemental Appropriations Act of 1987".

[*Total, title II, Omnibus Drug Supplemental Appropriations Act of 1987, $1,741,251,000.*]

TITLE III

SCHOOL LUNCH AND CHILD NUTRITION AMENDMENTS

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "School Lunch and Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 301. Short title; table of contents.

Subtitle A—Reauthorization of Child Nutrition Programs

Sec. 311. Summer food service program for children.
Sec. 312. Commodity distribution program.
Sec. 313. State administrative expenses.
Sec. 314. Special supplemental food program for women, infants, and children.
Sec. 315. Nutrition education and training program.

Subtitle B—School Lunch and Breakfast Programs

Sec. 321. Basis of commodity assistance.
Sec. 322. Inclusion of whole milk as a school lunch beverage.
Sec. 323. Automatic eligibility for certain programs.
Sec. 324. Limitation on meal contracting.
Sec. 325. Change in tuition limitation for private schools.
Sec. 326. Use of school lunch facilities for elderly programs.
Sec. 327. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 328. Department of Defense overseas dependents' schools.
Sec. 329. Restoration of certain kindergartens to the special milk program.
Sec. 330. Improvement of breakfast program meal pattern.
Sec. 331. Extension of offer versus serve provision to the school breakfast program.
Sec. 332. Staffing standards.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

Sec. 341. Costs for nutrition services and administration.
Sec. 342. State eligibility for WIC funds.
Sec. 343. Participation report.
Sec. 344. Plan of operation and administration.
Sec. 345. Public comment.
Sec. 346. Availability of program benefits.
Sec. 347. Repayment of certain benefits by recipients.
Sec. 348. Priority funds for WIC migrant programs.
Sec. 349. Improving State agency administrative systems.
Sec. 350. Paperwork reduction.
Sec. 351. Allocation standards.
Sec. 352. Advance payments.
Sec. 353. Availability of funds.

Subtitle D—Other Nutrition Programs

Sec. 361. Hearings on Federal audit actions under the child care food program.
Sec. 362. Basis for nutrition education grants.
Sec. 363. Extension of alternative means of assistance.
Sec. 364. National donated commodity processing programs.

Subtitle E—Technical Corrections

Sec. 371. Obsolete provisions.
Sec. 372. Obsolete references to Health, Education, and Welfare.
Sec. 373. Conforming amendments.

Subtitle F—Sale of Agricultural Notes and Other Obligations

Sec. 381. Sale of agricultural notes and other obligations.

Subtitle A—Reauthorization of Child Nutrition Programs

SEC. 311. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 312. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 313. STATE ADMINISTRATIVE EXPENSES.

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 314. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,580,494,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 315. NUTRITION EDUCATION AND TRAINING PROGRAM.

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

Subtitle B—School Lunch and Breakfast Programs

SEC. 321. BASIS OF COMMODITY ASSISTANCE.

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

SEC. 322. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE.

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 323. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS.

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of

1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 324. LIMITATION ON MEAL CONTRACTING.

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 325. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS.

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended in the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended in subparagraph (A) of the first sentence by striking "except private schools whose average yearly tuition exceeds $1,500 per child,".

(c) The amendments made by this section shall take effect July 1, 1987.

SEC. 326. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 327. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT.

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) Conforming Amendment.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 328. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS.

(a) School Lunches.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) School Breakfasts.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 329. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM.

Effective July 1, 1987, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 330. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN.

(a) Additional Assistance.—Effective July 1, 1987, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

(b) Nutrition Requirements.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the

National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

(2) Not later than 180 days after the date of enactment of this title, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 331. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM.

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

SEC. 332. STAFFING STANDARDS.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 313) is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

Subtitle C—Special Supplemental Food Program for Women, Infants, and Children

SEC. 341. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 342. STATE ELIGIBILITY FOR WIC FUNDS.

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this title.

SEC. 343. PARTICIPATION REPORT.

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 314(2)(A)) is further amended by inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

SEC. 344. PLAN OF OPERATION AND ADMINISTRATION.

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

SEC. 345. PUBLIC COMMENT.

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 346. AVAILABILITY OF PROGRAM BENEFITS.

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 347. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS.

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 348. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS.

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 314(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

(b) Accountability.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 349. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS.

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 314(2)(A) and 343(b)) is further amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),".

SEC. 350. PAPERWORK REDUCTION.

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 351. ALLOCATION STANDARDS.

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 352. ADVANCE PAYMENTS.

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 353. AVAILABILITY OF FUNDS.

(a) Availability.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

(b) Application.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this title.

Subtitle D—Other Nutrition Programs

SEC. 361. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM.

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs.

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 362. BASIS FOR NUTRITION EDUCATION GRANTS.

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 363. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out this paragraph, to be available without fiscal year limitation.".

SEC. 364. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

Subtitle E—Technical Corrections

SEC. 371. OBSOLETE PROVISIONS.

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) Study of Menu Choice.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) Conforming Amendments.—(1) The National School Lunch Act (as amended by sections 327 and 328(a) and subsection (b)) is further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 372. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE.

(a) References in National School Lunch Act.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) References in Child Nutrition Act of 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 373. CONFORMING AMENDMENTS.

(a) Definition of Secretary.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) Redesignation of Subsection.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 315, 362, and 372(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

Subtitle F—Sale of Agricultural Notes and Other Obligations

SEC. 381. SALE OF AGRICULTURAL NOTES AND OTHER OBLIGATIONS.

(a) In General.—The Secretary of Agriculture shall, under such terms as the Secretary may prescribe, sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a) in such amounts as to realize net proceeds of not less than—

(1) $25,000,000 from such sales during fiscal year 1987;

(2) $36,000,000 from such sales during fiscal year 1988; and

(3) $37,000,000 from such sales during fiscal year 1989.

(b) Collection and Sale of Notes.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended—

(1) by inserting "and other obligations" after "Notes"; and

(2) by striking out the period at the end thereof and inserting the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes and other obligations sold by the Secretary on a nonrecourse basis

shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) FARM CREDIT SYSTEM INSTITUTIONS.—Notwithstanding any other provision of law, institutions of the Farm Credit System operating under the Farm Credit Act of 1971 (12 U.S.C. 2001) shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institutions' interests in such notes and other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and such purchasing institutions and as are approved by the Farm Credit Administration.

TITLE V—AVIATION SAFETY

SHORT TITLE

SEC. 501. This title may be cited as the "Aviation Safety Commission Act of 1986".

COMMISSION ESTABLISHED

SEC. 502. (a) There is established a commission to be known as the Aviation Safety Commission (hereinafter referred to as the "Commission").

(b)(1) The Commission shall be composed of seven members appointed by the President no later than 30 days after the date of enactment of this Act.

(2) Appointees to the Commission shall possess extensive experience and expertise at the highest executive levels of public or corporate management.

(3) No member of the Commission shall, at the time of such member's appointment, be an employee or officer of the Federal Government, nor shall any member have been an employee of the Federal Government for at least 3 years before such member's appointment to the Commission.

(4)(A) At least four members of the Commission, including the Chairman, shall not have performed any service or have been involved in any way in any business concern in air commerce or any aviation-related industry for at least 3 years before their appointment to the Commission.

(B) For the purposes of this paragraph, the term "air commerce" has the meaning given to such term in section 101(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(4)).

(c) The President shall appoint one of the members to serve as Chairman of the Commission.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f)(1) The Commission shall hold its first meeting within 30 days after the appointment of all members.

(2) The Commission shall meet at the call of the Chairman or a majority of the members.

(g) Members of the Commission shall serve until the expiration of the Commission.

(h) The Commission shall cease to exist 18 months after the date of enactment of this Act.

FUNCTIONS OF THE COMMISSION

SEC. 503. The Commission shall make a complete study of the organization and functions of the Federal Aviation Administration (hereinafter referred to as the "Administration") and the means by which the Administration may most efficiently and effectively perform the responsibilities assigned to it by law and increase aviation safety.

(a)(1) In conducting such study, the Commission shall consider whether—

(A) the dual responsibilities of the Administration of promoting commercial aviation and ensuring aviation safety are in conflict, and whether such conflict impedes the effective maintenance and enhancement of aviation safety;

(B) the Administration should be reorganized as an independent Federal agency with the promotion, maintenance, and enhancement of aviation safety as the sole responsibility of such agency;

(C) the promotion of commercial aviation should be assigned as a responsibility to another agency of the Federal Government;

(D) airline deregulation has an adverse effect on the margin of aviation safety, including a review of whether the practice of airline self-compliance with respect to aviation maintenance standards is an outmoded approach in an environment designed to maximize cost-savings;

(E) it is feasible to make mandatory certain or all of the safety recommendations issued by the National Transportation Safety Board; and

(F) the Administration has adequately used its resources to ensure aviation safety.

(2) The study conducted under this subsection shall include findings and recommendations, including any recommendations for legislative action, regarding—

(A) the most appropriate and effective organizational approach to ensuring aviation safety; and

(B) measures to improve the enforcement of Federal regulations relating to aviation safety.

(3) In conducting such study, the Commission shall consult with the National Transportation Safety Board and a broad spectrum of representatives of the aviation industry, including—

(A) air traffic controllers;

(B) representatives of the commercial aviation industry;

(C) representatives of airways facilities technicians;

(D) independent experts on aviation safety;

(E) former Administrators of the Administration; and

(F) representatives of civil aviation.

(4) Within 9 months after the date of enactment of this Act, the Commission shall submit a report on the study conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

(b) The Commission shall also make a complete investigation of management and employee relationships within the Administration, particularly the air traffic control system, and recommend actions for improvements.

(1) In conducting such investigation, the Commission shall:

(A) consider the findings and recommendations of the March 17, 1982, report of the "Task Force for the Study of Management-Employee Relationships in the FAA" (Jones Report) and document the progress made in implementing the recommendations of that report;

(B) assess the safety impact of rehiring former air traffic controllers who were dismissed as a result of the 1981 air traffic controller strike;

(C) assess the adequacy of the Administration's air traffic controller staffing standards, especially as they relate to the number of "full performance level" controllers, and review the Administration's experience in meeting those standards in each year since 1981; and

(D) formulate cost-effective recommendations to improve aviation safety based on the findings and conclusions of its investigation.

(2) Within 18 months after the date of enactment of this Act, the Commission shall submit a report on the investigation conducted pursuant to this subsection to the President and to each House of Congress. Such report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative and administrative actions.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 504. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and publish such reports as the Commission considers appropriate.

(b)(1) Subject to such rules as may be adopted by the Commission, the Chairman, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 of such title relating to classification or chapter 53 of such title relating to General Schedule pay rates, may—

(A) appoint and fix the compensation of such staff personnel as the Chairman considers necessary, including an executive director who may be compensated at a rate not in excess of that provided for level V of the Executive Schedule in title 5, United States Code; and

(B) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Any person appointed as executive director pursuant to paragraph (1)(A) of this subsection shall meet the same qualification required of members pursuant to section 502(b) of this Act.

(c) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Commission, upon request made by the Chairman, such information as the Commission considers necessary to carry out its functions.

(d) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(e) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) The Commission may use the United States mail in the same manner and under the same conditions as departments and agencies of the United States.

(g) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission may take under this section.

COMPENSATION OF MEMBERS

SEC. 505. Members of the Commission shall serve without compensation, but shall be reimbursed for travel or transportation expenses under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business and engaged in the actual performance of duties of the Commission.

AUTHORIZATION

SEC. 506. There is hereby authorized to be appropriated such sums as may be necessary in fiscal years 1987 and 1988 to carry out the provisions of this Act. *(authorization)*

APPROPRIATIONS

SEC. 507. There is hereby appropriated for fiscal year 1987, $2,000,000 to carry out the provisions of this Act, to remain available until expended. $2,000,000

[*Total, title V, Aviation Safety Commission Act of 1986, $2,000,000.*]

TITLE VI—METROPOLITAN WASHINGTON AIRPORTS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act of 1986".

SEC. 6002. FINDINGS.

The Congress finds that—

(1) the two federally owned airports in the metropolitan area of Washington, District of Columbia, constitute an important and growing part of the commerce, transportation, and economic patterns of the Commonwealth of Virginia, the District of Columbia, and the surrounding region;

(2) Baltimore/Washington International Airport, owned and operated by the State of Maryland, is an air transportation facility that provides service to the greater Metropolitan Washington region together with the two federally owned airports, and timely Federal-aid grants to Baltimore/Washington International Airport will provide additional capacity to meet the growing air traffic needs and to compete with other airports on a fair basis;

(3) the Federal Government has a continuing but limited interest in the operation of the two federally owned airports, which serve the travel and cargo needs of the entire Metropolitan Washington region as well as the District of Columbia as the national seat of government;

(4) operation of the Metropolitan Washington Airports by an independent local agency will facilitate timely improvements at both airports to meet the growing demand of interstate air transportation occasioned by the Airline Deregulation Act of 1978 (Public Law 95-504; 92 Stat. 1705);

(5) all other major air carrier airports in the United States are operated by public entities at the State, regional, or local level;

(6) any change in status of the two airports must take into account the interest of nearby communities, the traveling public, air carriers, general aviation, airport employees, and other interested groups, as well as the interests of the Federal Government and State governments involved;

(7) in recognition of a perceived limited need for a Federal role in the management of these airports and the growing local interest, the Secretary has recommended a transfer of authority from the Federal to the local/State level that is consistent with the management of major airports elsewhere in the Nation;

(8) an operating authority with representation from local jurisdictions, similar to authorities at all major airports in the United States, will improve communications with local officials and concerned residents regarding noise at the Metropolitan Washington Airports;

(9) a commission of congressional, State, and local officials and aviation representatives has recommended to the Secretary that transfer of the federally owned airports be as a unit to an independent authority to be created by the Commonwealth of Virginia and the District of Columbia; and

(10) the Federal interest in these airports can be provided through a lease mechanism which provides for local control and operation.

SEC. 6003. PURPOSE.

(a) In General.—It is therefore declared to be the purpose of the Congress in this title to authorize the transfer of operating responsibility under long-term lease of the two Metropolitan Washington Airport properties as a unit, including access highways and other related facilities, to a properly constituted independent airport authority created by the Commonwealth of Virginia and the District of Columbia, in order to achieve local control, management, operation, and development of these important transportation assets.

(b) Inclusion of BWI Not Precluded.—Nothing in this title shall be construed to prohibit the Airports Authority and the State of Maryland from entering into an agreement whereby Baltimore/Washington International Airport may be made part of a regional airports authority, subject to terms and conditions agreed to by the Airports Authority, the Secretary, the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

SEC. 6004. DEFINITIONS.

In this title—

(1) Administrator.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) Airports authority.—The term "Airports Authority" means the Metropolitan Washington Airports Authority, a public body to be created by the Commonwealth of Virginia and the District of Columbia consistent with the requirements of section 6007.

(3) Employees.—The term "employees" means all permanent Federal Aviation Administration personnel employed on the date the lease under section 6005 takes effect by the Metropolitan Washington Airports, an organization within the Federal Aviation Administration.

(4) Metropolitan washington airports.—The term "Metropolitan Washington Airports" means Washington National Airport and Washington Dulles International Airport.

(5) Secretary.—The term "Secretary" means the Secretary of Transportation.

(6) Washington dulles international airport.—The term "Washington Dulles International Airport" means the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport on or in the vicinity of the District of Columbia",

approved September 7, 1950 (64 Stat. 770), and includes the Dulles Airport Access Highway and Right-of-way, including the extension between the Interstate Routes I-495 and I-66.

(7) WASHINGTON NATIONAL AIRPORT.—The term "Washington National Airport" means the airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686).

SEC. 6005. LEASE OF METROPOLITAN WASHINGTON AIRPORTS.

(a) AUTHORITY TO ENTER INTO LEASE.—The Secretary is authorized to enter into a lease of the Metropolitan Washington Airports with the Airports Authority for a 50-year term and to enter into any related agreement necessary for the transfer of authority and property to the Airports Authority. Authority to enter into a lease and agreement under this section shall lapse two years after the date of the enactment of this title.

(b) PAYMENTS.—

(1) LEASE PAYMENTS.—The lease shall provide for the Airports Authority to pay to the general fund of the Treasury annually an amount, computed using the GNP Price Deflator, to equal $3,000,000 in 1987 dollars. The Secretary and the Airports Authority may renegotiate the level of lease payments attributable to inflation costs every ten years.

(2) RETIREMENT OBLIGATIONS.—

(A) DISCONTINUED SERVICE.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the actual added costs incurred by the Fund due to discontinued service retirement under section 8336(d)(1) of title 5, United States Code, of employees who elect not to transfer to the Airports Authority.

(B) UNFUNDED LIABILITY.—Not later than one year after the lease takes effect, the Airports Authority shall pay to the Treasury of the United States, to be deposited to the credit of the Civil Service Retirement and Disability Fund, an amount determined by the Office of Personnel Management to represent the present value of the difference between (i) the future cost of benefits payable from the Fund and due the employees covered under section 6008(e) of this title that are attributable to the period of employment following the date the lease takes effect, and (ii) the contributions made by the employees and the Airports Authority under section 6008(e). In determining the amount due, the Office of Personnel Management shall take into consideration the actual interest such amount can be expected to earn when invested in the Treasury of the United States.

(c) MINIMUM TERMS AND CONDITIONS.—The Airports Authority shall agree, at a minimum, to the following conditions and requirements in the lease:

(1) OPERATION OF AIRPORTS AS A UNIT.—The Airports Authority shall operate, maintain, protect, promote, and develop the Metropolitan Washington Airports as a unit and as primary airports serving the Metropolitan Washington area.

(2) AIRPORT PURPOSES.—The real property constituting the Metropolitan Washington Airports shall, during the period of the lease, be used only for airport purposes. For the purposes of this paragraph, the term "airport purposes" means a use of property interests (other than a sale) for aviation business or

activities, or for activities necessary or appropriate to serve passengers or cargo in air commerce, or for nonprofit, public use facilities. If the Secretary determines that any portion of the real property leased to the Airports Authority pursuant to this Act is used for other than airport purposes, the Secretary shall (A) direct that appropriate measures be taken by the Airports Authority to bring the use of such portion of real property in conformity with airport purposes, and (B) retake possession of such portion of real property if the Airports Authority fails to bring the use of such portion into a conforming use within a reasonable period of time, as determined by the Secretary.

(3) AIP REQUIREMENTS.—The Airports Authority shall be subject to the requirements of section 511(a) of the Airport and Airway Improvement Act of 1982 and the assurances and conditions required of grant recipients under such Act as of the date the lease takes effect. Notwithstanding section 511(a)(12) of such Act, all revenues generated by the Metropolitan Washington Airports shall be expended for the capital and operating costs of such airports.

(4) CONTRACTS.—In acquiring by contract supplies or services for an amount estimated to be in excess of $200,000, or awarding concession contracts, the Airports Authority shall obtain, to the maximum extent practicable, full and open competition through the use of published competitive procedures. By a vote of seven members, the Airports Authority may grant exceptions to the requirements of this paragraph.

(5) CONTINUATION OF REGULATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), all regulations of the Metropolitan Washington Airports (14 C.F.R. part 159) shall become regulations of the Airports Authority on the date the lease takes effect and shall remain in effect until modified or revoked by the Airports Authority in accordance with procedures of the Airports Authority.

(B) EXCEPTIONS.—The following regulations shall cease to be in effect on the date the lease takes effect:

(i) section 159.59(a) of title 14, Code of Federal Regulations (relating to new-technology aircraft); and

(ii) section 159.191 of title 14, Code of Federal Regulations (relating to violations of Federal Aviation Administration regulations as Federal misdemeanors).

(C) OPERATIONS.—The Airports Authority may not increase or decrease the number of instrument flight rule takeoffs and landings authorized by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this Act and may not impose a limitation after the date the lease takes effect on the number of passengers taking off or landing at Washington National Airport.

(6) TRANSFER OF RIGHTS, LIABILITIES, AND OBLIGATIONS.—

(A) IN GENERAL.—Except as specified in subparagraph (B) of this paragraph, the Airports Authority shall assume all rights, liabilities, and obligations (tangible and incorporeal, present and executory) of the Metropolitan Washington Airports on the date the lease takes effect, including leases, permits, licenses, contracts, agreements, claims, tariffs, accounts receivable, accounts payable, and litigation relating to such rights and obligations, regardless whether judgment has been entered, damages awarded, or appeal taken. Before the date the lease takes effect, the Secretary shall also assure that the Airports Authority has agreed to cooperate in allowing representatives of the Attorney General and the Secretary adequate access to employees and records when needed for the performance of functions related to the period before the effectiveness of the lease. The Airports Authority shall assume responsibility for the Federal Aviation Administration's Master Plans for the Metropolitan Washington Airports.

(B) EXCEPTIONS.—The procedure for disputes resolution contained in any contract entered into on behalf of the United States before the date the lease takes effect shall continue to govern the performance of the contract unless otherwise agreed to by the parties to the contract. Claims for monetary damages founded in tort, by or against the United States as the owner and operator of the Metropolitan Washington Airports, arising before the date the lease takes effect shall be adjudicated as if the lease had not been entered into.

(C) PAYMENTS INTO EMPLOYEES' COMPENSATION FUND.—The Federal Aviation Administration shall remain responsible for reimbursing the Employees' Compensation Fund, pursuant to section 8147 of title 5, United States Code, for compensation paid or payable after the date the lease takes effect in accordance with chapter 81 of title 5, United States Code, with regard to any injury, disability, or death due to events arising before such date, whether or not a claim has been filed or is final on such date.

(D) COLLECTIVE BARGAINING RIGHTS.—The Airports Authority shall continue all collective bargaining rights enjoyed before the date the lease takes effect by employees of the Metropolitan Washington Airports.

(7) AUDITS.—The Comptroller General of the United States may conduct periodic audits of the activities and transactions of the Airports Authority in accordance with generally accepted management principles, and under such rules and regulations as may be prescribed by the Comptroller General. Any such audit shall be conducted at such place or places as the Comptroller General may deem appropriate. All books, accounts, records, reports, files, papers, and property of the Airports Authority shall remain in possession and custody of the Airports Authority.

(8) CODE OF ETHICS.—The Airports Authority shall develop a code of ethics and financial disclosure in order to assure the integrity of all decisions made by its board of directors and employees.

(9) RESTRICTION ON USE OF CERTAIN REVENUES.—Notwithstanding any other provision of law, no landing fee imposed for operating an aircraft or revenues derived from parking automobiles—

(A) at Washington Dulles International Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington National Airport; or

(B) at Washington National Airport may be used for maintenance or operating expenses (excluding debt service, depreciation, and amortization) at Washington Dulles International Airport.

(10) GENERAL AVIATION FEES.—The Airports Authority shall compute the fees and charges for landing general aviation aircraft at the Metropolitan Washington Airports on the same basis as the landing fees for air carrier aircraft, except that the Airports Authority may require a minimum landing fee not in excess of the landing fee for aircraft weighing 12,500 pounds.

(11) OTHER TERMS.—The Secretary shall include such other terms and conditions applicable to the parties to the lease as are consistent with and carry out the provisions of this title.

(d) SUBMISSION TO CONGRESS.—The Secretary shall submit the lease entered into under this section to Congress. The lease may not take effect before the passage of (1) 30 days, or (2) 10 days in which either House of Congress is in session, whichever occurs later.

(e) ENFORCEMENT OF LEASE PROVISIONS.—The district courts of the United States shall have jurisdiction to compel the Airports Authority and its officers and employees to comply with the terms of the lease. An action may be brought on behalf of the United States by the Attorney General, or by any aggrieved party.

SEC. 6006. CAPITAL IMPROVEMENTS, CONSTRUCTION, AND REHABILITATION.

(a) IMPROVEMENTS.—It is the sense of the Congress that the Airports Authority should—

(1) pursue the improvement, construction, and rehabilitation of the facilities at Washington Dulles International Airport and Washington National Airport simultaneously; and

(2) to the extent practicable, cause the improvement, construction, and rehabilitation proposed by the Secretary to be completed at both of such Airports within 5 years after the earliest date on which the Airports Authority issues bonds under the authority required by section 6007 of this title for any such improvement, construction, or rehabilitation.

(b) SECRETARY'S ASSISTANCE.—The Secretary shall assist the three airports serving the Washington, D.C. metropolitan area in planning for operational and capital improvements at those airports and shall accelerate consideration of applications for Federal financial assistance by whichever of the three airports is most in need of increasing airside capacity.

SEC. 6007. AIRPORTS AUTHORITY.

(a) POWERS CONFERRED BY VIRGINIA AND THE DISTRICT OF COLUMBIA.—The Airports Authority shall be a public body corporate and politic, having the powers and jurisdiction as are conferred upon it jointly by the legislative authority of the Commonwealth of Virginia and the District of Columbia or by either of the jurisdictions and concurred in by the legislative authority of the other jurisdiction, but at a minimum meeting the requirements of this section.

(b) PURPOSE.—The Airports Authority shall be—

(1) independent of the Commonwealth of Virginia and its local governments, the District of Columbia, and the Federal Government; and

(2) a political subdivision constituted solely to operate and improve both Metropolitan Washington Airports as primary airports serving the Metropolitan Washington area.

(c) GENERAL AUTHORITIES.—The Airports Authority shall be authorized—

(1) to acquire, maintain, improve, operate, protect, and promote the Metropolitan Washington Airports for public purposes;

(2) to issue bonds from time to time in its discretion for public purposes, including the purposes of paying all or any part of the cost of airport improvements, construction, and rehabilitation, and the acquisition of real and personal property, including operating equipment for the airports, which bonds—

(A) shall not constitute a debt of either jurisdiction or a political subdivision thereof; and

(B) may be secured by the Airports Authority's revenues generally, or exclusively from the income and revenues of certain designated projects whether or not they are financed in whole or part from the proceeds of such bonds;

(3) to acquire real and personal property by purchase, lease, transfer, or exchange, and to exercise such powers of eminent domain within the Commonwealth of Virginia as are conferred upon it by the Commonwealth of Virginia;

(4) to levy fees or other charges; and

(5) to make and maintain agreements with employee organizations to the extent that the Federal Aviation Administration is so authorized on the date of enactment of this title.

(d) CONFLICT-OF-INTEREST PROVISIONS.—The Airports Authority shall be subject to a conflict-of-interest provision providing that members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. Exceptions to requirements of the preceding sentence may be made by the official appointing a member at the time the member is appointed, if the financial interest is fully disclosed and so long as the member does not participate in board decisions that directly affect such interest. The Airports Authority shall include in its code developed under section 6005(c)(8) of this title the standards by which members will determine what constitutes a substantial financial interest and the circumstances under which an exception may be granted.

(e) BOARD OF DIRECTORS.—

(1) APPOINTMENT.—The Airports Authority shall be governed by a board of directors of 11 members, as follows:

(A) five members shall be appointed by the Governor of Virginia;

(B) three members shall be appointed by the Mayor of the District of Columbia;

(C) two members shall be appointed by the Governor of Maryland; and

(D) one member shall be appointed by the President with the advice and consent of the Senate.

The Chairman shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

(2) RESTRICTIONS.—Members shall (A) not hold elective or appointive political office, (B) serve without compensation other than for reasonable expenses incident to board functions, and (C) reside within the Washington Standard Metropolitan Statistical Area, except that the member appointed by the President shall not be required to reside in that area.

(3) TERMS.—Members shall be appointed to the board for a term of 6 years, except that of members first appointed—

(A) by the Governor of Virginia, 2 shall be appointed for 4 years and 2 shall be appointed for 2 years;

(B) by the Mayor of the District of Columbia, 1 shall be appointed for 4 years and 1 shall be appointed for 2 years; and

(C) by the Governor of Maryland, 1 shall be appointed for 4 years.

(4) REMOVAL OF PRESIDENTIAL APPOINTEES.—A member of the board appointed by the President shall be subject to removal by the President for cause.

(5) REQUIRED NUMBER OF VOTES.—Seven votes shall be required to approve bond issues and the annual budget.

(f) BOARD OF REVIEW.—

(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. Such Board of Review shall be established by the board of directors and shall consist of the following, in their individual capacities, as representatives of users of the Metropolitan Washington Airports:

(A) two members of the Public Works and Transportation Committee and two members of the Appropriations Committee of the House of Representatives from a list provided by the Speaker of the House;

(B) two members of the Commerce, Science, and Transportation Committee and two members of the Appropriations Committee of the Senate from a list provided by the President pro tempore of the Senate; and

(C) one member chosen alternately from members of the House of Representatives and members of the Senate, from a list provided by the Speaker of the House or the President pro tempore of the Senate, respectively.

The members of the Board of Review shall elect a chairman. A member of the House of Representatives or the Senate from Maryland or Virginia and the Delegate from the District of Columbia may not serve on the Board of Review.

(2) TERMS.—Members of the Board of Review appointed under subparagraphs (A) and (B) of paragraph (1) shall be appointed for terms of six years, except that of the members first appointed, one member under each of subparagraphs (A) and (B) shall be appointed for a term of two years and one member under each of subparagraphs (A) and (B) shall be appointed for a term of four years. Members of the Board of Review appointed under subparagraph (C) shall be appointed for terms of two years. A vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(3) PROCEDURES.—The Board of Review shall establish procedures for conducting its business. The procedures may include requirements for a quorum at meetings and for proxy voting. The Board shall meet at least once each year and shall meet at the call of the chairman or 3 members of the Board. Any decision of the Board of Review under paragraph (4) or (5) shall be by a vote of 5 members of the Board.

(4) DISAPPROVAL PROCEDURE.—

(A) SUBMISSION REQUIRED.—An action of the Airports Authority described in subparagraph (B) shall be submitted to the Board of Review at least 30 days (or at least 60 days in the case of the annual budget) before it is to become effective.

(B) ACTIONS AFFECTED.—The following are the actions referred to in subparagraph (A):

(i) the adoption of an annual budget;

(ii) the authorization for the issuance of bonds;

(iii) the adoption, amendment, or repeal of a regulation;

(iv) the adoption or revision of a master plan, including any proposal for land acquisition; and

(v) the appointment of the chief executive officer.

(C) 30-DAY DISAPPROVAL PERIOD.—If the Board of Review does not disapprove an action within 30 days of its submission under this paragraph, the action may take effect. If the Board of Review disapproves any such action, it shall notify the Airports Authority and shall give reasons for the disapproval.

(D) EFFECT OF DISAPPROVAL.—An action disapproved under this paragraph shall not take effect. Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.

(5) REQUEST FOR CONSIDERATION OF OTHER MATTERS.—The Board of Review may request the Airports Authority to consider and vote, or to report, on any matter related to the Metropolitan Washington Airports. Upon receipt of such a request the Airports Authority shall consider and vote, or report, on the matter as promptly as feasible.

(6) PARTICIPATION IN MEETINGS OF AIRPORTS AUTHORITY.—Members of the Board of Review may participate as nonvoting members in meetings of the board of the Airports Authority.

(7) STAFF.—The Board of Review may hire two staff persons to be paid by the Airports Authority. The Airports Authority shall provide such clerical and support staff as the Board may require.

(8) LIABILITY.—A member of the Board of Review shall not be liable in connection with any claim, action, suit, or proceeding arising from service on the Board.

(g) CERTAIN ACTIONS TO BE TAKEN BY REGULATION.—Any action of the Airports Authority changing, or having the effect of changing, the hours of operation of or the type of aircraft serving either of the Metropolitan Washington Airports may be taken only by regulation of the Airports Authority.

(h) LIMITATION ON AUTHORITY.—If the Board of Review established under subsection (f) is unable to carry out its functions under this title by reason of a judicial order, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (f)(4) to be submitted to the Board of Review.

SEC. 6008. FEDERAL EMPLOYEES AT THE METROPOLITAN WASHINGTON AIRPORTS.

(a) EMPLOYEE PROTECTION.—Not later than the date the lease under section 6005 takes effect, the Secretary shall ensure that the Airports Authority has established arrangements to protect the employment interests of employees during the 5-year period beginning on such date. These arrangements shall include provisions—

(1) which ensure that the Airports Authority will adopt labor agreements in accordance with the provisions of subsection (b) of this section;

(2) for the transfer and retention of all employees who agree to transfer to the Airports Authority in their same positions for the 5-year period commencing on the date the lease under section 6005 takes effect except in cases of reassignment, separation for cause, resignation, or retirement;

(3) for the payment by the Airports Authority of basic and premium pay to transferred employees, except in cases of separation for cause, resignation, or retirement, for 5 years commencing on the date the lease takes effect at or above the rates of pay in effect for such employees on such date;

(4) for credit during the 5-year period commencing on the date the lease takes effect for accrued annual and sick leave and

seniority rights which have been accrued during the period of Federal employment by transferred employees retained by the Airports Authority; and

(5) for an offering of not less than one life insurance and three health insurance programs for transferred employees retained by the Airports Authority during the 5-year period beginning on the date the lease takes effect which are reasonably comparable with respect to employee premium cost and coverage to the Federal health and life insurance programs available to employees on the day before such date.

(b) LABOR AGREEMENTS.—

(1) ADOPTION.—The Airports Authority shall adopt all labor agreements which are in effect on the date the lease under section 6005 takes effect. Such agreements shall continue in effect for the 5-year period commencing on such date, unless the agreement provides for a shorter duration or the parties agree to the contrary before the expiration of that 5-year period. Such agreements shall be renegotiated during the 5-year period, unless the parties agree otherwise. Any labor-management negotiation impasse declared before the date the lease takes effect shall be settled in accordance with chapter 71 of title 5, United States Code.

(2) CONTINUATION.—The arrangements made pursuant to this section shall assure, during the 50-year lease term, the continuation of all collective bargaining rights enjoyed by transferred employees retained by the Airports Authority.

(c) RIGHTS OF TERMINATED EMPLOYEES.—Any transferred employee whose employment with the Airports Authority is terminated during the 5-year period beginning on the date the lease under section 6005 takes effect shall be entitled, as a condition of any lease entered into in accordance with section 6005 of this title, to rights and benefits to be provided by the Airports Authority that are similar to those such employee would have had under Federal law if termination had occurred immediately before such date.

(d) ANNUAL AND SICK LEAVE.—Any employee who transfers to the Airports Authority under this section shall not be entitled to lump-sum payment for unused annual leave under section 5551 of title 5, United States Code, but shall be credited by the Airports Authority with the unused annual leave balance on the date the lease under section 6005 takes effect, along with any unused sick leave balance on such date. During the 5-year period beginning on such date, annual and sick leave shall be earned at the same rates permitted on the day before such date, and observed official holidays shall be the same as those specified in section 6103 of title 5, United States Code.

(e) CIVIL SERVICE RETIREMENT.—Any Federal employee who transfers to the Airports Authority and who on the day before the date the lease under section 6005 takes effect is subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Airports Authority without a break in service, continue to be subject to such subchapter or chapter, as the case may be. Employment by the Airports Authority without a break in continuity of service shall be considered to be employment by the United States Government for purposes of such subchapter and chapter. The Airports Authority shall be the employing agency for purposes of such subchapter and chapter and shall contribute to the Civil Service Retirement and Disability Fund such sums as are required by such subchapter and chapter.

(f) SEPARATED EMPLOYEES.—An employee who does not transfer to the Airports Authority and who does not otherwise remain a Federal employee shall be entitled to all of the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Airports Authority of work substantially similar to that performed for the Federal Government.

(g) ACCESS TO RECORDS.—The Airports Authority shall allow representatives of the Secretary adequate access to employees and employee records of the Airports Authority when needed for the performance of functions related to the period before the date the lease under section 6005 takes effect. The Secretary shall provide the Airports Authority access to employee records of transferring employees for appropriate purposes.

SEC. 6009. RELATIONSHIP TO AND EFFECT OF OTHER LAWS.

(a) OTHER LAWS.—In order to assure that the Airports Authority has the same proprietary powers and is subject to the same restrictions with respect to Federal law as any other airport except as otherwise provided in this title, during the period that the lease authorized by section 6005 of this title is in effect—

(1) the Metropolitan Washington Airports shall be considered public airports for purposes of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.); and

(2) the Acts entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), and "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes", approved October 9, 1940 (54 Stat. 1030), shall not apply to the operation of the Metropolitan Washington Airports, and the Secretary shall be relieved of all responsibility under those Acts.

(b) INAPPLICABILITY OF CERTAIN LAWS.—The Metropolitan Washington Airports and the Airports Authority shall not be subject to the requirements of any law solely by reason of the retention by the United States of the fee simple title to such airports or by reason of the authority of the Board of Review under subsection 6007(f).

(c) POLICE POWER.—The Commonwealth of Virginia shall have concurrent police power authority over the Metropolitan Washington Airports, and the courts of the Commonwealth of Virginia may exercise jurisdiction over Washington National Airport.

(d) PLANNING.—

(1) IN GENERAL.—The authority of the National Capital Planning Commission under section 5 of the Act of June 6, 1924 (40 U.S.C. 71d) shall not apply to the Airports Authority.

(2) CONSULTATION.—The Airports Authority shall consult—

(A) with the National Capital Planning Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport, and

(B) with the National Capital Planning Commission before undertaking development that would alter the skyline of Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

(e) OPERATION LIMITATIONS.—

(1) HIGH DENSITY RULE.—The Administrator may not increase the number of instrument flight rule takeoffs and landings

authorized for air carriers by the High Density Rule (14 C.F.R. 93.121 et seq.) at Washington National Airport on the date of the enactment of this title and may not decrease the number of such takeoffs and landings except for reasons of safety.

(2) ANNUAL PASSENGER LIMITATIONS.—The Federal Aviation Administration air traffic regulation entitled "Modification of Allocation: Washington National Airport" (14 C.F.R. 93.124) shall cease to be in effect on the date of the enactment of this title.

SEC. 6010. AUTHORITY TO NEGOTIATE EXTENSION OF LEASE.

The Secretary and the Airports Authority may at any time negotiate an extension of the lease entered into under section 6005(a).

SEC. 6011. SEPARABILITY.

Except as provided in section 6007(h), if any provision of this title or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 6012. NONSTOP FLIGHTS.

PERIMETER RULE.—An air carrier may not operate an aircraft nonstop in air transportation between Washington National Airport and another airport that is more than 1,250 statute miles away from Washington National Airport.

Approved October 30, 1986.

NOTE: When the President signed H.J. Res. 738 on October 18, 1986, it was assigned Public Law No. 99-500. The following statement was issued by the President in conjunction with his signing of Public Law 99-591:

On October 17, 1986, I was presented by the Congress with an enrolled resolution designated H.J. Res. 738, a joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes. I signed this measure into law on October 18, 1986. I have since learned that H.J. Res. 738 was not properly enrolled, in that a small number of paragraphs of text were omitted due to clerical error.

The provisions I signed into law on October 18 remain the law of the land. The Supreme Court has held that transmission errors of this sort do not in any way vitiate the legal effect of a President's signature. Accordingly, that which was signed became law.

H.J. Res. 738 has since been properly enrolled and has been presented to me for signature. My signing of H.J. Res. 738 today will enable the provisions previously omitted to become law as well.

LEGISLATIVE HISTORY—H.J. RES. 738

(H.R. 5052) (H.R. 5161) (H.R. 5162) (H.R. 5175) (H.R. 5177) (H.R. 5203) (H.R. 5205) (H.R. 5233) (H.R. 5234) (H.R. 5294) (H.R. 5313) (H.R. 5339) (H.R. 5438)

HOUSE REPORT No. 99-1005 (Comm. of Conference).
SENATE REPORT No. 99-500 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 132 (1986):
  Sept. 25, considered and passed House.
  Sept. 29, 30, Oct. 1-3, considered and passed Senate, amended.
  Oct. 15, House agreed to conference report, receded and concurred in certain Senate amendment, in others with amendments.
  Oct. 16, Senate agreed to conference report, concurred in certain House amendment and receded from another.
  Oct. 17, Senate concurred in certain House amendment with an amendment; House receded from certain Senate amendments and concurred in another.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
  Oct. 30, Presidential statement.

Grand total, new budget (obligational) authority, Fourth Further Continuing Appropriations, 1987 (net) (Public Law 99-591)	$4,555,561,000

Note.—The following tabulation is a classification by departments and establishments of new budget (obligational) authority made in the foregoing resolution:

Department or establishment	Amount
Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987 (H.R. 5177) (pp. 189-226)	[1] $45,727,595,000
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987 (H.R. 5161) (pp. 226-267)	[2] 12,372,985,000
Department of Defense Appropriation Bill, 1987 (H.R. 5438) (pp. 268-357)	[3] 268,675,129,000
District of Columbia Appropriation Bill, 1987 (H.R. 5175):	
Federal funds (pp. 357-370)	[4] 580,380,000
(District of Columbia funds) (pp. 358-370)	*(3,215,534,000)*
Energy and Water Development Appropriation Bill, 1987 (H.R. 5162) (pp. 371-389)	[5] 15,007,277,000
Foreign Assistance and Related Programs Appropriations Bill, 1987 (H.R. 5339) (pp. 389-415)	[6] 13,372,245,711
Department of Housing and Urban Development—Independent Agencies Appropriation Bill, 1987 (H.R. 5313) (p. 416)	[7] 53,577,802,700
National Aeronautics and Space Administration:	
Research and Development (p. 416)	36,000,000
Space flight, control, and data communications (p. 416)	2,398,000,000
Department of the Interior and Related Agencies Appropriations Bill, 1987 (H.R. 5234) (pp. 416-458)	[8] 8,308,405,000
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Bill, 1987 (H.R. 5233) (p. 458)	[9] 113,947,638,000
Legislative Branch Appropriations Bill, 1987 (H.R. 5203) (p. 458)	[10] 1,637,290,214
Military Construction Appropriation Bill, 1987 (H.R. 5052) (pp. 458-466)	[11] 8,590,774,000
Department of Transportation and Related Agencies Appropriation Bill, 1987 (H.R. 5205) (p. 478)	[12] 10,253,373,069
Treasury, Postal Service, and General Government Appropriations Bill, 1987 (H.R. 5294) (pp. 478-512)	[13] 13,642,799,800
Department of Health and Human Services: Refugee and entrant assistance (p. 512)	361,633,000
Department of Education: Special programs (p. 513)	7,177,000
Department of Commerce: Economic development assistance programs (p. 513)	9,500,000
Department of Justice, the Judiciary, and Related Agency:	
Department of Justice (pp. 523-524)	539,500,000
The Judiciary (p. 524)	37,500,000
United States Information Agency (p. 524)	2,000,000
Foreign Assistance and Related Agency:	
Agency for International Development (p. 525)	3,000,000
International narcotics control (p. 525)	53,000,000
Department of the Interior and Related Agency:	
Department of the Interior (pp. 525-526)	23,500,000
Department of Health and Human Services (p. 526)	21,700,000
Departments of Labor, Health and Human Services, Education, and Related Agency:	
Department of Labor (p. 526)	3,000,000
Department of Health and Human Services (p. 526)	262,000,000
Department of Education (p. 526)	200,000,000
ACTION (p. 527)	3,000,000
Department of Transportation: Coast Guard (p. 527)	128,000,000
Department of the Treasury and Related Agency:	
Department of the Treasury (pp. 527-528)	160,051,000
Executive Office of the President (p. 528)	5,000,000
Department of Defense (p. 528)	300,000,000
Aviation Safety (p. 542)	2,000,000
Grand total, new budget (obligational) authority, Fourth Further Continuing Appropriations, 1987	570,249,255,494

Department or establishment	Amount
LESS amounts for appropriation acts having separate extended bill and table VIII's in this volume:	
Agriculture, Rural Development, and Related Agencies Appropriation Bill, 1987 (H.R. 5177) (see pp. 47–48 and pp. 3093–3099)	–$45,727,595,000
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, 1987 (H.R. 5161) (see pp. 49–50 and pp. 3100–3106)	–12,372,985,000
Department of Defense Appropriation Bill, 1987 (H.R. 5438) (see pp. 51–52 and pp. 3107–3110)	–268,675,129,000
District of Columbia Appropriation Bill, 1987 (H.R. 5175) (see pp. 53–54 and pp. 3111–3112):	
Federal funds	–580,380,000
(District of Columbia funds)	*(–3,215,534,000)*
Energy and Water Development Appropriation Bill, 1987 (H.R. 5162) (see pp. 55–56 and pp. 3113–3115)	–15,007,277,000
Foreign Assistance and Related Programs Appropriations Bill, 1987 (H.R. 5339) (see pp. 57–58 and pp. 3116–3119)	–13,372,245,711
Department of Housing and Urban Development—Independent Agencies Appropriation Bill, 1987 (H.R. 5313) (see pp. 59–89 and pp. 3120–3124)	–53,577,802,700
Department of the Interior and Related Agencies Appropriations Bill, 1987 (H.R. 5234) (see pp. 91–92 and pp. 3125–3129)	–8,308,405,000
Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Bill, 1987 (H.R. 5233) (see pp. 93–125 and pp. 3130–3137)	–113,947,638,000
Legislative Branch Appropriations Bill, 1987 (H.R. 5203) (see pp. 127–142 and pp. 3138–3143)	–1,637,290,214
Military Construction Appropriation Bill, 1987 (H.R. 5052) (see p. 143 and pp. 3144–3145)	–8,590,774,000
Department of Transportation and Related Agencies Appropriation Bill, 1987 (H.R. 5205) (see pp. 145–172 and pp. 3146–3150)	–10,253,373,069
Treasury, Postal Service, and General Government Appropriations Bill, 1987 (H.R. 5294) (see pp. 173–175 and pp. 3151–3153)	–13,642,799,800
Subtotal, deductions (regular annual appropriations bills, 1987)	–565,693,694,494
Net total, new budget (obligational) authority, Fourth Further Continuing Appropriations, 1987	4,555,561,000

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[1] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5177, which was not enacted into law, a separate extended bill and table VIII for H.R. 5177 are included in this volume on pp. 47-48 and pp. 3093-3099.

[2] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5161, which was not enacted into law, a separate extended bill and table VIII for H.R. 5161 are included in this volume on pp. 49-50 and pp. 3100-3106.

[3] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5438, which was not enacted into law, a separate extended bill and table VIII for H.R. 5438 are included in this volume on pp. 51-52 and pp. 3107-3110.

[4] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5175, which was not enacted into law, a separate extended bill and table VIII for H.R. 5175 are included in this volume on pp. 53-54 and pp. 3111-3112.

[5] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5162, which was not enacted into law, a separate extended bill and table VIII for H.R. 5162 are included in this volume on pp. 55-56 and pp. 3113-3115.

[6] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5339, which was not enacted into law, a separate extended bill and table VIII for H.R. 5339 are included in this volume on pp. 57-58 and pp. 3116-3119.

[7] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5313, which was not enacted into law, a separate extended bill and table VIII for H.R. 5313 are included in this volume on pp. 59-89 and pp. 3120-3124.

[8] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5234, which was not enacted into law, a separate extended bill and table VIII for H.R. 5234 are included in this volume on pp. 91-92 and pp. 3125-3129.

[9] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5233, which was not enacted into law, a separate extended bill and table VIII for H.R. 5233 are included in this volume on pp. 93-125 and pp. 3130-3137.

[10] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5203, which was not enacted into law, a separate extended bill and table VIII for H.R. 5203 are included in this volume on pp. 127-142 and pp. 3138-3143.

[11] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5052, which was not enacted into law, a separate extended bill and table VIII for H.R. 5052 are included in this volume on p. 143 and pp. 3144-3145.

[12] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5205, which was not enacted into law, a separate extended bill and table VIII for H.R. 5205 are included in this volume on pp. 145-172 and pp. 3146-3150.

[13] Although new budget (obligational) authority is provided in this joint resolution (Public Law 99-591) for programs and activities in H.R. 5294, which was not enacted into law, a separate extended bill and table VIII for H.R. 5294 are included in this volume on pp. 173-175 and pp. 3151-3153.

99th Congress, 2d Session - - - - - - - - - - - - House Document 99-265

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS, SEPTEMBER 1986

COMMUNICATION

FROM

THE DIRECTOR, THE OFFICE OF MANAGEMENT AND BUDGET

TRANSMITTING

A CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS OF BUDGET AUTHORITY AS OF SEPTEMBER 1, 1986, PURSUANT TO 2 U.S.C. 685(e)

SEPTEMBER 11, 1986.—Referred to the Committee on Appropriations and ordered to be printed.

U.S. GOVERNMENT PRINTING OFFICE
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WASHINGTON : 1986

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 10 1986

Honorable Thomas P. O'Neill
Speaker of the House of
  Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with the Act, the report is also being transmitted to the Senate and will be published in the Federal Register.

Sincerely yours,

James C. Miller III
Director

Enclosure

IDENTICAL LETTER SENT TO THE PRESIDENT OF THE SENATE

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS

September 1, 1986

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of September 1, 1986, of 83 rescission proposals and 70 deferrals contained in the seven special messages of FY 1986. These messages were transmitted to the Congress on October 1 and November 25, 1985, February 5, March 12, March 20, April 25, and June 24, 1986.

Rescissions (Table A and Attachment A)

As of September 1, 1986, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of September 1, 1986, $3,993.5 million in 1986 budget authority was being deferred from obligation and $7.5 million in 1986 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1986.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the Federal Registers listed below:

Vol. 50, FR p. 41100, Tuesday, October 8, 1985
Vol. 50, FR p. 49498, Monday, December 2, 1985
Vol. 51, FR p. 5830, Tuesday, February 18, 1986
Vol. 51, FR p. 9154, Monday, March 17, 1986
Vol. 51, FR p. 10526, Wednesday, March 26, 1986
Vol. 51, FR p. 16274, Thursday, May 1, 1986
Vol. 51, FR p. 24790, Tuesday, July 8, 1986

Attachment A - Status of Rescissions - Fiscal Year 1986

As of September 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
FUNDS APPROPRIATED TO THE PRESIDENT								
Multilateral Assistance								
International organizations and programs.	R86-1 R86-1A	39,760		2-5-86 3-20-86		39,760	4-16-86	
DEPARTMENT OF AGRICULTURE								
Agricultural Stabilization and Conservation Service								
Rural clean water program................	R86-2	6,000		2-5-86		6,000	4-16-86	
Agricultural conservation program........	R86-3	140,839		2-5-86		140,839	4-16-86	
Water bank program.......................	R86-4	8,371		2-5-86		8,371	4-16-86	
Dairy indemnity program..................	R86-5	95		2-5-86		95	4-16-86	
Rural Electrification Administration								
Reimbursement to the Rural electrification and telephone revolving fund for interest subsidies and losses..	R86-6	100,000		2-5-86		100,000	4-16-86	
Purchase of Rural Telephone Bank capital stock....................................	R86-7	28,710		2-5-86		28,710	4-16-86	
Farmers Home Administration								
Rural development loan fund..............	R86-10	13,674		2-5-86		13,674	4-16-86	
Soil Conservation Service								
Watershed and flood prevention operations	R86-11	60,401		2-5-86		60,401	4-16-86	
Great plains conservation program........	R86-12	6,606		2-5-86		6,606	4-16-86	
Food and Nutrition Service								
Food donations program...................	R86-13	5,183		2-5-86		5,183	4-16-86	
DEPARTMENT OF COMMERCE								
Economic Development Administration								
Economic development assistance programs.	R86-14	101,309		2-5-86		101,309	4-16-86	
International Trade Administration								
Operations and administration............	R86-15	19,290		2-5-86		19,290	4-16-86	
National Oceanic and Atmospheric Administration								
Operations, research, and facilities.....	R86-16	63,323		2-5-86		63,323	4-16-86	
National Telecommunications and Information Administration								
Public telecommunications facilities, planning and construction...............	R86-17	21,820		2-5-86		21,820	4-16-86	
DEPARTMENT OF DEFENSE - MILITARY								
Procurement								
Procurement of weapons and tracked combat vehicles, Army...........................	R86-81	34,400		4-25-86	34,400	34,400	6-23-86	P.L. 99-349
Shipbuilding and conversion, Navy........	R86-82	40,100		4-25-86	40,100	40,100	6-23-86	P.L. 99-349
Other procurement, Air Force.............	R86-83	40,000		4-25-86	40,000	40,000	6-23-86	P.L. 99-349
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Compensatory education for the disadvantaged............................	R86-18	7,177		2-5-86		7,177	4-16-86	
Special programs.........................	R86-19	37,782		2-5-86		37,782	4-16-86	
Office of Bilingual Education and Minority Languages Affairs								
Immigrant education......................	R86-20	28,710		2-5-86		28,710	4-16-86	
Office of Special Education and Rehabilitative Services								
Education for the handicapped............	R86-21	44,364		2-5-86		44,364	4-16-86	
Rehabilitation services and handicapped research.................................	R86-22	75,439		2-5-86		75,439	4-16-86	
Payments to institutions for the handicapped.............................	R86-23	446		2-5-86		446	4-16-86	
Office of Vocational and Adult Education								
Vocational and adult education...........	R86-24	210,337		2-5-86		210,337	4-16-86	
Office of Postsecondary Education								
Student financial assistance.............	R86-25	456,347		2-5-86		456,347	4-16-86	
Higher education.........................	R86-26	100,882		2-5-86		100,882	4-16-86	
Special Institutions								
Howard University........................	R86-27	5,699		2-5-86		5,699	4-16-86	

Attachment A - Status of Rescissions - Fiscal Year 1986

As of September 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Office of Educational Research and Improvement								
Libraries	R86-28	33,017		2-5-86		33,017	4-16-86	
DEPARTMENT OF ENERGY								
Energy Programs								
Energy supply, research and development activities	R86-8	38,489		3-12-86		38,489	5-9-86	
Fossil energy research and development	R86-80	13,072		3-12-86		13,072	5-9-86	
Energy conservation	R86-77	9,816		3-12-86		9,816	5-9-86	
	R86-77A	5,344		3-20-86		5,344	5-9-86	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Health Resources and Services Administration								
Health resources and services	R86-9	211,455		2-5-86		211,455	4-17-86	
Indian health	R86-29	24,262		2-5-86		24,262	4-16-86	
Indian health facilities	R96-30	38,642		2-5-86		38,642	4-16-86	
Centers for Disease Control								
Disease control, research, and training	R86-31	34,096		2-5-86		34,096	4-17-86	
National Institutes of Health								
National Cancer Institute	R86-32	6,800		2-5-86		6,800	4-18-86	
National Heart, Lung and Blood Institute	R86-33	11,469		2-5-86		11,469	4-18-86	
National Institute of Diabetes and Digestive and Kidney Diseases	R86-34	7,980		2-5-86		7,980	4-18-86	
National Institute of Neurological and Communicative Disorders and Strokes	R86-35	9,554		2-5-86		9,554	4-18-86	
National Institute of Allergy and Infectious Disease	R86-36	1,513		2-5-86		1,513	4-18-86	
National Institute of General Medical Sciences	R86-37	7,358		2-5-86		7,358	4-18-86	
National Institute of Child Health and Human Development	R86-38	1,150		2-5-86		1,150	4-18-86	
National Eye Institute	R86-39	5,224		2-5-86		5,224	4-18-86	
National Institute on Aging	R86-40	2,679		2-5-86		2,679	4-18-86	
Office of the Director	R86-41	23,055		2-5-86		23,055	4-18-86	
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R86-42	39,718		2-5-86		39,718	4-18-86	
Health Care Financing Administration								
Program management	R86-43	912		2-5-86		912	4-16-86	
Social Security Administration								
Refugee and entrant assistance	R86-44	87,551		2-5-86		87,551	4-16-86	
Human Development Services								
Human development services	R86-45	29,980		2-5-86		29,980	4-16-86	
Family social services	R86-46	6,157		2-5-86		6,157	4-16-86	
Work incentives	R86-47	45,884		2-5-86		45,884	4-16-86	
Community services block grant	R86-48	182,139		2-5-86		182,139	4-16-86	
Community development credit union revolving fund	R86-49	2,529		2-5-86		2,529	4-16-86	
Departmental Management								
General Departmental management	R86-50	19,619		2-5-86		19,619	4-16-86	
Policy research	R86-51	220		2-5-86		220	4-16-86	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Subsidized housing programs	R86-52	4,416,151		2-5-86		4,416,151	4-16-86	
Congregate services program	R86-53	2,555		2-5-86		2,555	4-16-86	
Housing counseling assistance	R86-54	3,313		2-5-86		3,313	4-16-86	
Community Planning and Development								
Urban development action grants	R86-55	220,062		2-5-86		220,062	4-16-86	
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Land acquisition	R86-56	3,000		2-5-86		3,000	4-16-86	
United States Fish and Wildlife Service								
Land acquisition	R86-57	4,951		2-5-86		4,951	4-16-86	
National Park Service								
Construction	R86-58	13,613		2-5-86		13,613	4-16-86	
Land acquisition	R86-59	83,917		2-5-86	28,710	83,917	4-16-86	P.L. 99-349
Historic preservation fund	R86-60	18,523		2-5-86		18,523	4-16-86	

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As of September 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
DEPARTMENT OF JUSTICE								
Federal Prison System National Institute of Corrections........	R86-61	3,315		2-5-86		3,315	4-16-86	
Office of Justice Programs Justice assistance.......................	R86-62	134,666		2-5-86		134,666	4-16-86	
DEPARTMENT OF LABOR								
Employment and Training Administration Training and employment services.........	R86-63	416,037		2-5-86		416,037	4-16-86	
DEPARTMENT OF TRANSPORTATION								
Federal Railroad Administration Rail service assistance..................	R86-64	14,355		2-5-86		14,355	4-16-86	
Northeast corridor improvement program...	R86-65	11,962		2-5-86		11,962	4-16-86	
Railroad rehabilitation and improvement financing funds.........................	R86-66	32,059		2-5-86		32,059	4-16-86	
Urban Mass Transportation Administration Discretionary grants.....................	R86-67	521,275		2-5-86		521,275	4-16-86	
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing Payments to State and local government fiscal assistance trust fund............	R86-68	759,975		2-5-86		759,975	4-16-86	
Federal Law Enforcement Training Center Salaries and expenses....................	R86-69	4,976		2-5-86		4,976	4-16-86	
United States Customs Service Salaries and expenses....................	R86-70	4,169		2-5-86		4,169	4-16-86	
Operation and maintenance, air interdiction program....................	R86-71	19,275		2-5-86		19,275	4-16-86	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and development.................	R86-72	26,796		2-5-86		26,796	4-16-86	
OFFICE OF PERSONNEL MANAGEMENT								
Government payment for annuitants, employees health benefits...............	R86-73	600,000		2-5-86		600,000	4-16-86	
OTHER INDEPENDENT AGENCIES								
Appalachian Regional Commission Appalachian regional development programs	R86-74	81,000		2-5-86		81,000	4-16-86	
Corporation for Public Broadcasting Public broadcasting fund.................	R86-75	44,000		2-5-86		44,000	4-16-86	
National Endowment for the Humanities Grants and administration................	R86-76	1,903		2-5-86		1,903	4-16-86	
State Justice Institute Salaries and expenses....................	R86-78	7,656		2-5-86		7,656	4-16-86	
United States Railway Association Administrative expenses..................	R86-79	640		2-5-86		640	4-16-86	
Total, rescissions.........................		10,126,892	0		143,210	10,126,892		

Notes. - The amount of the rescission proposal for Subsidized housing programs (R86-52) for the "Rental rehabilitation grants program" was inadvertently shown in the Third Special Message as $71,755,000 instead of $71,775,000. This report reflects the correct amount.

The following rescission proposal has been adjusted downward to reflect the impact of sequestration: R86-54..... $3,312,500

Amounts rescinded in the Urgent Supplemental Appropriations Act, 1986 on July 2, 1986 were available between the date of release and the date of enactment.

Attachment B - Status of Deferrals - Fiscal Year 1986

As of September 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D86-1	10,000		10-1-85					10,000
International Security Assistance									
Foreign military sales credit..............	D86-32	4,590,000		2-5-86	4,127,912				462,088
Economic support fund......................	D86-24	1,222,216		11-25-85					
	D86-24A		1,936,060	2-5-86	2,600,005			40,491	518,762
Military assistance program................	D86-33	661,350		2-5-86	648,407				12,943
International military education and training..................................	D86-34	27,245		2-5-86	27,245				0
Agency for International Development									
International disaster assistance..........	D86-59	64,607		3-12-86	54,970				9,637
Multilateral Development Banks									
Contribution to the special facility for sub-saharan Africa..........................	D86-35	75,000		2-5-86	75,000				0
DEPARTMENT OF AGRICULTURE									
Farmers Home Administration									
Rural housing insurance fund...............	D86-60	700,000		3-12-86		700,000	P.L. 99-349		0
Forest Service									
Expenses, brush disposal...................	D86-2	77,913		10-1-85					
	D86-2A		30,893	3-12-86	7,300				101,506
Timber salvage sales.......................	D86-3	22,854		10-1-85	151	3,153	P.L. 99-349		19,549
Cooperative work...........................	D86-61	442,336		3-12-86					442,336
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Economic development assistance programs.................................	D86-36	40,000		2-5-86		40,000	P.L. 99-349		0
National Oceanic and Atmospheric Administration									
Promote and develop fishery products and research pertaining to American fisheries	D86-26	32,333		11-25-85	32,333				0
Fisheries loan fund........................	D86-25	1,959		11-25-85					
	D86-25A		330	2-5-86					2,297
Patent and Trademark Office									
Salaries and expenses......................	D86-65	1,977		3-20-86					1,977
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense.............	D86-4	353,079		10-1-85					
	D86-4A		1,488,579	2-5-86	1,881,631			42,323	2,350
Family Housing									
Family housing, Defense....................	D86-27	11,800		11-25-85					
	D86-27A		210,042	2-5-86	144,899				76,943
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation......................	D86-5	1,160		10-1-85					
	D86-5A		88	2-5-86	124			106	1,230
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply, research and development activities................................	D86-38	65,763		2-5-86	41,029	23,156	P.L. 99-349	1,120	2,698
Uranium supply and enrichment activities...	D86-58	584,158		2-5-86					584,158
Fossil energy research and development.....	D86-6	9,247		10-1-85					
	D86-6A		55,565	2-5-86	44,065	18,140	P.L. 99-349		2,607
	D86-67	500		6-24-86					500
Fossil energy construction.................	D86-7	7,038		10-1-85	4,964				2,074
Naval petroleum and oil shale reserves.....	D86-8	155,668		10-1-85					
	D86-8A		10,798	2-5-86	130,005				36,461

Attachment B - Status of Deferrals - Fiscal Year 1986

As of September 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-86
Energy conservation	D86-9	9,000		10-1-85					
	D86-9A		26,902	3-12-86	18,560	14,746	P.L. 99-349	3,080	6,556
	D86-68	287		6-24-86					287
Strategic petroleum reserve	D86-37	197,941		2-5-86	156,759	197,941	P.L. 99-349	156,759	0
	D86-69	637		6-24-86					637
SPR petroleum account	D86-10	536,958		10-1-85					
	D86-10A		40,576	2-5-86		577,534	P.L. 99-349		0
Alternative fuels production	D86-11	1,149		10-1-85					
	D86-11A		750	2-5-86	1,899				0
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D86-62	400		3-12-86					400
Southeastern Power Administration, Operation and maintenance	D86-12	25,344		10-1-85	23,936			681	2,089
Southwestern Power Administration, Operation and maintenance	D86-13	5,000		10-1-85					
	D86-13A		8,243	2-5-86					13,243
Western Area Power Administration, Construction, rehabilitation, operation and maintenance	D86-14	27,095		10-1-85					
	D86-14A		16,371	3-12-86	11,900				31,566
Departmental Administration									
Departmental administration	D86-15	8,501		10-1-85	8,501				0
	D86-63	393		3-12-86					393
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D86-16	3,000		10-1-85					3,000
Health Care Financing Administration									
Program management	D86-57	8,489		2-5-86	8,489				0
	D86-70	45,000		6-24-86					45,000
Social Security Administration									
Limitation on administrative expenses (construction)	D86-28	6,489		11-25-85					
	D86-28A		157	2-5-86					6,647
Limitation on administrative expenses (excludes disability determination services)	D86-39	30,000		2-5-86	30,000				0
Limitation on administrative expenses (information technology systems)	D86-40	114,641		2-5-86					114,641
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing - Budget authority	D86-41	7,032,443		2-5-86	4,731,637	7,032,443	P.L. 99-349	4,731,637	0
Contract authority	D86-42	641		2-5-86	641				0
Rental housing development grants	D86-43	77,400		2-5-86	77,400				0
Congregate services program	D86-44	2,670		2-5-86	2,670				0
Housing for the elderly or handicapped fund	D86-45	599,801		2-5-86	599,801	599,801	P.L. 99-349	599,801	0
Nonprofit sponsor assistance	D86-46	1,000		2-5-86	1,000	1,000	P.L. 99-349	1,000	0
Community Planning and Development									
Rental rehabilitation grants program	D86-47	77,000		2-5-86	77,000				0
Community development grants	D86-48	500,000		2-5-86		500,000	P.L. 99-349		0
Urban development action grants	D86-49	251,000		2-5-86	251,000				0
Rehabilitation loan fund	D86-50	135,535		2-5-86	4,402	135,535	P.L. 99-349	4,402	0
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of Mineral Leasing Act of 1920, Section 40(d)	D86-66	49		3-20-86					49
National Park Service									
Land acquisition and State assistance	D86-64	1,893		3-12-86					1,893
DEPARTMENT OF JUSTICE									
Bureau of Prisons									
Buildings and facilities	D86-17	20,000		10-1-85					
	D86-17A		10,730	2-5-86	24,330				6,400

Attachment B - Status of Deferrals - Fiscal Year 1986

As of September 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 9-1-86
Office of Justice Programs									
Crime victims fund..........................	D86-18	100,000		10-1-85					
	D86-18A		3,396	2-5-86	4,300				99,096
DEPARTMENT OF LABOR									
Employment and Training Administration									
State unemployment insurance and employment service operation.............	D86-51	37,000		2-5-86	33,089				3,911
DEPARTMENT OF STATE									
Bureau of Refugee Programs									
United States emergency refugee and migration assistance fund, executive......	D86-19	18,082		10-1-85	12,000				6,082
Other									
Assistance for implementation of a Contadora agreement........................	D86-20	2,000		10-1-85					2,000
DEPARTMENT OF TRANSPORTATION									
Federal Railroad Administration									
Conrail labor protection..................	D86-52	4,565		2-5-86	4,565				0
Urban Mass Transportation Administration									
Discretionary grants.......................	D86-21	223,600		10-1-85		223,600	P.L. 99-190		0
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)........................	D86-29	686,438		11-25-85					
	D86-29A		681,723	2-5-86	156,011				1,212,151
Maritime Administration									
Operations and training..................	D86-53	9,350		2-5-86					
	D86-53A		888	3-20-86	8,500	10,238	P.L. 99-349	8,500	0
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund......................................	D86-30	7,743		11-25-85					
	D86-30A		97,483	2-5-86					
	D86-30B		19,774	3-12-86	143,757			26,211	7,455
Local government fiscal assistance trust fund......................................	D86-31	54,349		11-25-85					
	D86-31A		25,651	3-12-86	6,126			244	74,118
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses.....................	D86-54	233		2-5-86					233
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund......	D86-22	10,947		10-1-85					10,947
Railroad Retirement Board									
Milwaukee railroad restructuring, administration............................	D86-23	243		10-1-85	43				200
Dual benefits payments account............	D86-55	2,201		2-5-86	2,009				192
United States Information Agency									
Acquisition and construction of radio facilities................................	D86-56	66,545		2-5-86	4,880				61,666
TOTAL, DEFERRALS..............................		20,102,143	4,665,008		16,305,245	10,077,286		5,616,355	4,000,976

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D86-30B) of outlays only.

Some of the amounts shown above as "Cumulative OMB/Agency Releases" were sequestered pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

The Urgent Supplemental Appropriations Act, 1986 (Public Law 99-349) disapproved parts of deferrals already released. The column entitled "Congressionally Required Releases" reflects the amount required to be released by the law. Appropriate adjustments were made in the "Cumulative Adjustments" column.

100th Congress, 1st Session - - - - - - - - - - - House Document 100-20

CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS, JANUARY 1, 1987

COMMUNICATION

FROM

THE DIRECTOR, THE OFFICE OF MANAGEMENT AND BUDGET

TRANSMITTING

A CUMULATIVE REPORT ON RESCISSIONS AND DEFERRALS OF BUDGET AUTHORITY AS OF JANUARY 1, 1987, PURSUANT TO 2 U.S.C. 685(E)

JANUARY 20, 1987.—Referred to the Committee on Appropriations and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE
91-011 WASHINGTON : 1987

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

0 9 JAN 1987

Honorable James C. Wright, Jr.
Speaker of the House of
  Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

In accordance with Executive Order 11845, I am transmitting the cumulative report required by Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974. In accordance with the Act, the report is also being transmitted to the Senate and will be published in the Federal Register.

Sincerely yours,

James C. Miller III
Director

Enclosure

IDENTICAL LETTER SENT TO THE PRESIDENT OF THE SENATE

CUMULATIVE REPORT ON
RESCISSIONS AND DEFERRALS

January 1, 1987

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of January 1, 1987, of 28 deferrals contained in the two special messages of FY 1987. These messages were transmitted to the Congress on September 26, and December 15, 1986.

Rescissions (Table A and Attachment A)

As of January 1, 1987, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of January 1, 1987, $9,636.3 million in 1987 budget authority was being deferred from obligation and $3.8 million in 1987 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1987.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the Federal Register listed below:

Vol. 51, FR p. 35976, Tuesday, October 7, 1986
Vol. 51, FR p. 47356, Wednesday, December 31, 1986

Attachment A - Status of Rescissions · Fiscal Year 1987

As of January 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1987

As of January 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 1-1-87
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Foreign military sales credit	D87-22	4,040,441		12-15-86	600,000				3,440,441
Economic support fund	D87-1	95,000		9-26-86					
	D87-1A		2,351,470	12-15-86	607,072				1,839,398
Military assistance	D87-23	847,000		12-15-86	38,000				809,000
International military education and training	D87-24	2,000		12-15-86					2,000
Agency for International Development									
International disaster assistance	D87-25	57,000		12-15-86	38,837				18,163
Special Assistance for the Nicaraguan Democratic Resistance									
Assistance for the Nicaraguan Democratic Resistance	D87-26	60,000		12-15-86					60,000
Promotion of stability and security in Central America	D87-27	1,000		12-15-86					1,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D87-2	111,202		9-26-86					111,202
Timber salvage sales	D87-3	29,731		9-26-86					29,731
Cooperative work	D87-4	526,930		9-26-86					526,930
Gifts, donations, and bequests for forest and rangeland research	D87-5	200		9-26-86					200
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D87-6	2,350		9-26-86					
	D87-6A		1,316,152	12-15-86	12,514				1,305,988
Family Housing									
Family housing, Defense	D87-7	76,943		9-26-86					
	D87-7A		190,022	12-15-86	65,143				201,822
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	D87-8	1,065		9-26-86	40				1,025
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D87-9	165		9-26-86					165
Southwestern Power Administration, Operation and maintenance	D87-10	7,554		9-26-86					7,554
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Health Resources and Services Administration									
Indian catastrophic health emergency fund	D87-28	10,000		12-15-86					10,000
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program)	D87-11	2,900		9-26-86					2,900
Social Security Administration									
Limitation on administrative expenses (construction)	D87-12	7,073		9-26-86					7,073
DEPARTMENT OF JUSTICE									
Office of Justice Programs									
Crime victims fund	D87-13	70,000		9-26-86					70,000
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive	D87-14	6,100		9-26-86					6,100
Other									
Assistance for implementation of a Contadora agreement	D87-15	2,000		9-26-86	2,000				0
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund)	D87-16	803,877		9-26-86					
	D87-16A		295,611	12-15-86					1,099,488

Attachment B - Status of Deferrals - Fiscal Year 1987

As of January 1, 1987 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 1-1-87
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund....................................	D87-17	74,149		9-26-86	23				74,126
Local government fiscal assistance trust fund....................................	D87-21	5,981		9-26-86	2,208				3,773
OTHER INDEPENDENT AGENCIES									
Commission on the Ukraine Famine									
Salaries and expenses......................	D87-18	100		9-26-86					100
Office of the Federal Inspector for the Alaska Natural Gas Transportation System, Salaries and expenses....................	D87-19	411		9-26-86	411				0
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund......	D87-20	11,873		9-26-86					11,873
TOTAL, DEFERRALS..............................		6,853,054	4,153,255		1,366,248	0		0	9,640,061

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

DEFERRAL RESOLUTIONS

Clerk's Note: There were no *separate* deferral resolutions acted upon by the Committees on Appropriations during the 99th Congress, 2d session.

AGRICULTURE ACTS

Public Law 99-241
99th Congress

100 STAT. 3

An Act

To delay the referendum with respect to the 1986 through 1988 crops of Flue-cured tobacco and to delay the proclamation of national marketing quotas for the 1986 through 1988 crops of Burley tobacco.

Jan. 30, 1986
[S. 2013]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by inserting after the third sentence the following new sentence: "Notwithstanding the foregoing sentence or section 312(c) of this Act, the referendum with respect to national marketing quotas for Flue-cured tobacco for the 1986 through 1988 marketing years may be conducted not later than the earlier of (1) thirty days after any proclamation of the national marketing quota for Flue-cured tobacco for the 1986 marketing year made after the date of enactment of this sentence, or (2) March 15, 1986.".**

SEC. 2. Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by inserting after the second sentence of the third paragraph the following new sentence: "Notwithstanding the foregoing sentence, the proclamation of national marketing quotas for Burley tobacco for the 1986 through 1988 marketing years may be made not later than March 1, 1986.".

Approved January 30, 1986.

LEGISLATIVE HISTORY—S. 2013:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Jan. 22, considered and passed Senate.
Jan. 23, considered and passed House.

Public Law 99-253
99th Congress

100 STAT. 36

An Act

To make certain technical corrections to amendments made by the Food Security Act of 1985, and for other purposes.

Feb. 28, 1986
[S. 2036]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CROSS COMPLIANCE FOR 1986 THROUGH 1990 CROPS OF WHEAT.

7 USC 1445b-3.

Paragraph (2) of section 107D(n) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985 (Public Law 99-198)) is amended to read as follows:

Ante, p. 1383.
Loans.

"(2) The Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect not exceed the crop acreage base for that commodity.".

SEC. 2. CROSS COMPLIANCE FOR 1986 THROUGH 1990 CROPS OF FEED GRAINS.

7 USC 1444e.

Ante, p. 1395.

Loans.

Paragraph (2) of section 105C(n) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985 (Public Law 99-198)) is amended to read as follows:

"(2) The Secretary may require that, as a condition of eligibility of producers on a farm for loans, purchases, or payments under this section, the acreage planted for harvest on the farm to any other commodity for which an acreage limitation program is in effect not exceed the crop acreage base for that commodity.".

SEC. 3. AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES.

Ante, p. 1635.

The fifth paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) (as amended by section 1711(a) of the Food Security Act of 1985 (Public Law 99-198)) is amended by—

(1) in the third sentence, striking out "community committee" and inserting in lieu thereof "local committee"; and

(2) striking out the fourth and fifth sentences and inserting in lieu thereof the following new sentences: "Each local administrative area shall have one local committee consisting of at least three members elected to three-year terms in a local election to be held every third year, except that there may be more than one local committee per administrative area in counties that, as of the date of enactment of the Food Security Act of 1985, have more than three local committees. Only one local administrative area shall hold an election in any given year in each county. Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area: *Provided*, That the foregoing requirement of this sentence shall not apply to any county that, on the date of enactment of the Food Security Act of 1985, had less than three local administrative areas. Only farmers who are participating or cooperating producers within an area shall be eligible to vote in the election in that area.".

100 STAT. 37

Ante, p. 1354.

SEC. 4. DETERMINATION OF CROP ACREAGE BASES.

7 USC 1464.

Ante, p. 1460.

Subsection (b)(1)(B)(ii) of section 504 of the Agricultural Act of 1949 (as added by section 1031 of the Food Security Act of 1985 (Public Law 99-198)) is amended by striking out "paragraph (1)(A) and paragraph (1)(B)(i)" and inserting in lieu thereof "clause (i)".

Approved February 28, 1986.

LEGISLATIVE HISTORY—S. 2036:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Jan. 30, considered and passed Senate.
Feb. 4, considered and passed House, amended.
Feb. 7, Senate concurred in House amendment.

Public Law 99-260
99th Congress

An Act

Mar. 20, 1986
[H.R. 1614]

Entitled the "Food Security Improvements Act of 1986".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food Security Improvements Act of 1986.
Agriculture and agricultural commodities.
7 USC 1281 note.
Conservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Security Improvements Act of 1986".

SEC. 2. NONPROGRAM CROPS.

99 Stat. 1383.
7 USC 1445b-3.

(a) **Wheat.**—Section 107D(c)(1) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985) is amended—

(1) in subparagraph (C), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (K))";

(2) in subparagraph (C)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (K)).''; and

(3) by striking out subparagraph (K) and inserting in lieu thereof the following new subparagraph:

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(K)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

State and local governments.

99 Stat. 1635, 1636.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (C) in such State to be devoted to haying and grazing.

100 STAT. 46

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

99 Stat. 1395.
7 USC 1444e.

(b) **Feed Grains.**—Section 105C(c)(1) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985) is amended—

(1) in subparagraph (B), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (I))";

(2) in subparagraph (B)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (I)).": and

(3) by striking out subparagraph (I) and inserting in lieu thereof the following new subparagraph:

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(I)(i) The Secretary may ~~permit, subject~~ to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

State and local governments.

99 Stat. 1635, 1636.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) in such State to be devoted to haying and grazing.

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

99 Stat. 1407.
7 USC 1444-1.

(c) COTTON.—Section 103A(c)(1) of the Agricultural Act of 1949 (as added by section 501 of the Food Security Act of 1985) is amended—

100 STAT. 47

(1) in subparagraph (B), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (G))";

(2) in subparagraph (B)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (G)).": and

(3) by striking out subparagraph (G) and inserting in lieu thereof the following new subparagraph:

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or ~~any part of~~ acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

State and local governments.

99 Stat. 1635, 1636.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) in such State to be devoted to haying and grazing.

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

99 Stat. 1419.
7 USC 1444-1.

(d) RICE.—Section 101A(c)(1) of the Agricultural Act of 1949 (as added by section 601 of the Food Security Act of 1985) is amended—

(1) in subparagraph (B), by striking out "or nonprogram crops" each place it appears in clauses (i) and (iv) and inserting in lieu thereof "(except as provided in subparagraph (G))";

(2) in subparagraph (B)(iii), by striking out the last sentence and inserting in lieu thereof the following new sentence: "To be eligible for payments under this clause, such producers must devote such acreage to conservation uses (except as provided in subparagraph (G))."; and

(3) by striking out subparagraph (G) and inserting in lieu thereof the following new subparagraph:

100 STAT. 48

Sorghum.
Guar.
Sesame.
Safflower.
Sunflower.
Castor beans.
Mustard seed.
Crambe.
Plantago ovato.
Flaxseed.
Triticale.
Rye.

"(G)(i) The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) to be devoted to sweet sorghum or the production of guar, sesame, safflower, sunflower, castor beans, mustard seed, crambe, plantago ovato, flaxseed, triticale, rye, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf), subject to the following sentence. The Secretary may permit such acreage to be devoted to such production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of such raw material and could lead to increased industrial use of such raw material to the long-term benefit of United States industry.

State and local governments.

99 Stat. 1635, 1636.

"(ii)(I) Except as provided in subclause (II), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (B) in such State to be devoted to haying and grazing.

Prohibition.

"(II) Haying and grazing shall not be permitted for any crop under subclause (I) if the Secretary determines that haying and grazing would have an adverse economic effect.".

Wheat.
Feedgrains.
Cotton.
Rice.
Soybeans.
Prohibition.
7 USC 1441-1 note.

(e) APPLICATION.—In the case of the 1986 crops of wheat, feed grains, upland cotton, and rice, the amendments made by this section shall not apply to any producer who demonstrates to the satisfaction of the Secretary of Agriculture that the producer, before February 26, 1986, planted or contracted to plant for the 1986 crop year a portion of the permitted acreage of the producer to any agricultural commodity other than wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

SEC. 3. FARM PROGRAM PAYMENT YIELDS.

(a) ESTABLISHED PRICE PAYMENTS FOR 1986 AND 1987 CROP YEARS.—Section 506(b) of the Agricultural Act of 1949 (as added by section 1031 of the Food Security Act of 1985) is amended—

99 Stat. 1463.
7 USC 1466.

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) In the case of the 1986 crop year for a commodity, if the farm program payment yield for a farm is reduced more than 3 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established

100 STAT. 49

price payments for the commodity (in the form of commodities owned by the Commodity Credit Corporation) in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 3 percent below the farm program payment yield for the 1985 crop year.

"(B) In the case of the 1987 crop year for a commodity, if the farm program payment yield for a farm is reduced more than 5 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity (in the form of commodities owned by the Commodity Credit Corporation) in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 5 percent below the farm program payment yield for the 1985 crop year.".

Prohibition.
99 Stat. 1463.
7 USC 1466.

(b) FARM PROGRAM PAYMENT YIELDS FOR 1988 AND SUBSEQUENT CROP YEARS.—Section 506(c)(1) of the Agricultural Act of 1949 is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this paragraph, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1988 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.".

SEC. 4. SPECIAL ASSISTANT FOR AGRICULTURAL TRADE AND FOOD ASSISTANCE.

99 Stat. 1479.
7 USC 1736-1.

(a) CHANGE OF TITLE.—(1) Section 1113 of the Food Security Act of 1985 is amended—

(A) in the caption, by striking out "FOOD AID" and inserting in lieu thereof "FOOD ASSISTANCE"; and

(B) in subsection (a), by striking out "Food Aid" and inserting in lieu thereof "Food Assistance".

(2) The table of contents in section 2 of such Act is amended by striking out "Food Aid" in the item relating to section 1113 and inserting in lieu thereof "Food Assistance".

President of U.S.

(b) **Appointment of Initial Special Assistant.**—Section 1113(a) of such Act is amended by adding at the end thereof the following new sentence: "The President shall appoint the initial Special Assistant not later than May 1, 1986.".

(c) **Removal of Level I Classification.**—Section 5312 of title 5, United States Code, as amended by section 1113(d) of the Food Security Act of 1985, is amended by striking out the item relating to:

"Special Assistant for Agricultural Trade and Food Aid.".

7 USC 1736-1.

(d) **Compensation for the Special Assistant.**—Section 1113(d) of the Food Security Act of 1985 is amended to read as follows:

President of U.S.

"(d) Compensation for the Special Assistant shall be fixed by the President at an annual rate of basic pay of not less than the rate applicable to positions in level III of the Executive Schedule.".

SEC. 5. TARGETED EXPORT ASSISTANCE.

99 Stat. 1481.
7 USC 1736s.

Section 1124 of the Food Security Act of 1985 is amended by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) For export activities authorized to be carried out by the Secretary of Agriculture or the Commodity Credit Corporation, in

100 STAT. 50

addition to any funds or commodities otherwise required under this Act to be used for such activities—

"(1) for each of the fiscal years ending September 30, 1986, through September 30, 1988, the Secretary shall use under this section not less than $110,000,000 of funds of, or commodities owned by, the Corporation; and

"(2) for each of the fiscal years ending September 30, 1989, and September 30, 1990, the Secretary shall use under this section not less than $325,000,000 of funds of, or commodities owned by, the Corporation.".

SEC. 6. DEVELOPMENT AND EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES.

99 Stat. 1483.
7 USC 1736v.

Subsection (i) of section 1127 of the Food Security Act of 1985 is amended to read as follows:

"(i) During the period beginning October 1, 1985, and ending September 30, 1988, the Secretary shall use agricultural commodities and the products thereof referred to in subsection (a) to carry out this section, except that the value of the commodities and products may not be less than $1,000,000,000, nor more than $1,500,000,000. To the maximum extent practicable, such commodities shall be used in equal amounts during each of the years in such period.".

SEC. 7. HAY AND GRAZING ON DIVERTED WHEAT AND FEED GRAIN ACREAGE.

(a) **Wheat.**—Subparagraph (C) of section 107D(f)(4) of the Agricultural Act of 1949 (as added by section 308 of the Food Security Act of 1985) is amended to read as follows:

99 Stat. 1383.
7 USC 1445b-3.
State and local governments.

99 Stat. 1635, 1636.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

"(I) hay and grazing during not less than 5 of the principal growing months (as established for a State by the State committee), in the case of the 1986 crop of wheat; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of wheat.

"(ii) In the case of each of the 1987 through 1990 crops of wheat, grazing shall not be permitted for any crop of wheat under clause (i)(II) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.".

(b) **Feed Grains.**—Subparagraph (C) of section 105C(f)(4) of the Agricultural Act of 1949 (as added by section 401 of the Food Security Act of 1985) is amended to read as follows:

99 Stat. 1395.
7 USC 1444e.

"(C)(i) Except as provided in clause (ii), the Secretary shall permit, at the request of the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State and subject to such terms and conditions as the Secretary may prescribe, all or any part of such acreage diverted from production by participating producers in such State to be devoted to—

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"(I) hay and grazing during not less than 5 of the principal growing months (as established for a State by the State committee), in the case of the 1986 crop of feed grains; and

"(II) grazing, in the case of each of the 1987 through 1990 crops of feed grains.

Prohibition.

"(ii) In the case of each of the 1987 through 1990 crops of feed grains, grazing shall not be permitted for any crop of feed grains under clause (i)(II) during any 5-consecutive-month period that is established for such crop for a State by the State committee established under section 8(b) of such Act.".

SEC. 8. PROTECTION OF BASE ON NONPROGRAM CROP ACREAGE.

99 Stat. 1461.
7 USC 1464.

Section 504(b)(2) of the Agricultural Act of 1949 (as added by section 1031 of the Food Security Act of 1985) is amended—

(1) by redesignating clause (D) as clause (E); and

(2) by striking out clause (C) and inserting in lieu thereof the following new clauses:

Conservation.

"(C) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted under section 107D(c)(1)(K), 105C(c)(1)(I), 103A(c)(1)(G), or 101A(c)(1)(G), as the case may be;

99 Stat. 1383, 1395, 1407, 1419.
7 USC 1445b-3, 1444e, 1444-1, 1441-1.

"(D) in the case of each of the 1986 through 1989 crop years, acreage in an amount equal to not to exceed 50 percent of the permitted acreage for a program crop for each of the 1986 and 1987 crop years, 35 percent of the permitted acreage for the 1988 crop year, and 20 percent of the permitted acreage for the 1989 crop year, if—

Peanuts.
Soybeans.
Cotton.

"(i) the acreage considered to be planted is planted to a crop, other than a program crop, peanuts, soybeans, extra long staple cotton, or commodities specified in clause (C);

"(ii) the producers on the farm plant for harvest to the program crop at least 50 percent of the permitted acreage for such crop; and

"(iii) payments are not received by producers under 107D(c)(1)(C), 105C(c)(1)(B), 103A(c)(1)(B), or 101A(c)(1)(B), as the case may be; and".

SEC. 9. MARKETWIDE SERVICE PAYMENTS.

7 USC 608c note.
99 Stat. 1373.

(a) **Hearing.**—Not later than 90 days after receipt of a proposal to amend a milk marketing order in accordance with section 8c(5)(J) of the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(5)(J)) (as added by section 133 of the Food Security Act of 1985), the Secretary of Agriculture shall conduct a hearing on the proposal.

7 USC 601 note.

(b) **Implementation.**—Not later than 120 days after a hearing is conducted under subsection (a), the Secretary shall implement, in accordance with the Agricultural Adjustment Act, a marketwide service payment program under section 8c(5)(J) of such Act that meets the requirements of such Act.

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SEC. 10. INCREASED MILK ASSESSMENTS TO MEET DEFICIT REDUCTION REQUIREMENTS.

Effective March 1, 1986, section 201(d)(2) of the Agricultural Act of 1949 (as amended by section 101(a) of the Food Security Act of 1985 (Public Law 99-198)) is amended—

99 Stat. 1362.
7 USC 1446.

(1) in subparagraph (B), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (E), the"; and

(2) by adding at the end thereof the following new subparagraph:

"(E)(i) In lieu of any reductions in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, required under the order issued by the President on February 1, 1986, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the Secretary shall increase the amount of the reduction required under subparagraph (A) during the period beginning April 1, 1986, and ending September 30, 1986, as the sole means of meeting any reductions required under the order in payments made by the Secretary for the purchase of milk and the products of milk under this subsection.

99 Stat. 1072.
2 USC 902.

Prohibition.

"(ii) The aggregate amount of any increased reduction under clause (i) shall be equal, to the extent practicable, to the aggregate amount of the reduction that would otherwise be required under the order referred to in clause (i) in payments made by the Secretary for the purchase of milk and the products of milk under this subsection during the period beginning March 1, 1986, and ending September 30, 1986, except that the amount of any increased reduction under clause (i) may not exceed 12 cents per hundredweight of milk marketed.".

SEC. 11. RESEARCH ON EXTERNAL COMBUSTION ENGINES.

Exports.
Prohibition.
15 USC 714b.

Section 4(m) of the Commodity Credit Corporation Charter Act is amended by adding at the end thereof a new sentence as follows: "Notwithstanding any other provision of this Act, the Corporation may, in the exercise of its power to remove and dispose of surplus agricultural commodities, export, or cause to be exported, not to exceed such amounts of commodities owned by the Corporation as will enable the Corporation to finance research and development of external combustion engines using fuel other than that derived from petroleum and petroleum products. The total value of commodities exported annually for the purposes of the research authorized by the preceding sentence may not exceed $30,000,000.".

SEC. 12. QUALITY CONTROL STUDIES UNDER THE FOOD STAMP PROGRAM.

Section 1538 of the Food Security Act of 1985 is amended—

99 Stat. 1587.
7 USC 2025 note.

(1) in subsection (a)(3), by striking out "of enactment of this Act" and inserting in lieu thereof "the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2)";

(2) in subsection (c)(1), by striking out "18 months after the date of enactment of this Act" and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported"; and

(3) in subsection (c)(2), by striking out "2 years after the date of enactment of this Act" and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported,".

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SEC. 13. ADVANCE RECOURSE LOANS.

7 USC 1433c-1.

(a) It is the sense of Congress that the Secretary of Agriculture carry out a program authorized by section 424 of the Agricultural Act of 1949. Such program, if implemented, shall provide for the following:

99 Stat. 1447.
7 USC 1433c.

Prohibition.

(1) Advance recourse loans shall be made available only to

those producers of a commodity who are unable to obtain sufficient credit elsewhere to finance the production of the 1986 crop of that commodity, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes (as determined by the Secretary) in the community in or near which the applicant resides. A producer who has received a commitment or been furnished sufficient credit or a loan for production of the 1986 crop of a commodity shall not be eligible for an advance recourse loan to finance the production of that commodity for such crop year.

(2) Advance recourse loans shall be made available to producers of a commodity at the applicable nonrecourse loan rate for the commodity (as determined by the Secretary). Within the limits set out in paragraphs (5) and (7), advance recourse loans shall be available—

Wheat
Feed grains
Cotton
Rice

(A) to producers of wheat, feed grains, cotton, and rice who agree to participate in the program announced for the commodity on an amount of the commodity equal to one-half of the farm program yield for the commodity multiplied by the farm program acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary;

Tobacco
Peanuts

(B) to producers of tobacco and peanuts who are on a farm for which a marketing quota or poundage quota has been established on an amount of the commodity equal to one-half of the farm marketing quota or poundage quota for the commodity, as determined by the Secretary; and

(C) to producers of other commodities on an amount of the commodity equal to one-half of the farm yield for the commodity multiplied by the farm acreage intended to be planted to the commodity for harvest in 1986, as determined by the Secretary.

Contracts

(3) An advance recourse loan under section 424 shall come due at such time immediately following harvest as the Secretary determines appropriate. Each loan contract entered into under section 424 shall specify the date on which the loan is to come due.

(4)(A) The Secretary shall establish procedures, when practicable, under which a producer, simultaneously with repayment of his recourse loan, may obtain a nonrecourse loan on his crop (as otherwise provided for in the Agricultural Act of 1949) in an amount sufficient to repay his recourse loan.

7 USC 1421 note

(B) In cases in which nonrecourse loans under such Act are not normally made available directly to producers, the Secretary shall establish procedures under which a producer may repay a recourse loan at the same time the producer receives advances or other payment from the producer's disposition of his crop.

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(5) Advance recourse loans shall be made available as needed solely to cover costs involved in the production of the 1986 crop that are incurred or are outstanding on or after the date of enactment of this section.

(6) To obtain an advance recourse loan, the producer on a farm must—

(A) provide as security for the loan a first lien on the crop covered by the loan or provide such other security as may be available to the producer and determined by the Secretary to be adequate to protect the Government's interests; and

Insurance

(B) obtain multiperil crop insurance, if available, to protect the crop that serves as security for the loan.

Insurance

If a producer does not have multiperil crop insurance and is located in a county in which the signup period for multiperil crop insurance has expired, the producer shall be required to obtain other crop insurance, if available.

Prohibition.
99 Stat. 1447.
7 USC 1433c.

(7) The total amount in advance recourse loans that may be made to a producer under section 424 may not exceed $50,000.

(8) An advance recourse loan may be made available only to a producer who agrees to comply with such other terms and conditions determined appropriate by the Secretary and consistent with the provisions of section 424.

99 Stat. 1635, 1636.

(b) The Secretary shall carry out the program provided for under section 424 through the Commodity Credit Corporation, using the services of the Agricultural Stabilization and Conservation Service and the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to make determinations of eligibility with respect to the credit test under subsection (a)(1), and determinations as to the sufficiency of security under subsection (a)(6). The Secretary may use such committees for such other purposes as the Secretary determines appropriate in carrying out section 424.

Regulations.

(c) It is further the sense of Congress that the Secretary of Agriculture issue or, as appropriate, amend regulations to implement any program established under section 424 as soon as practicable, but not later than 15 days after the date of enactment of this Act. Loans and other assistance provided under such program shall be made available beginning on the date such regulations are issued or amended.

SEC. 14. TRANSFER OF AGRICULTURAL PRODUCTS STORED IN WAREHOUSES.

Section 17 of the United States Warehouse Act (7 U.S.C. 259) is amended—

(1) by striking out "That" and inserting in lieu thereof "(a) Except as provided in subsection (b),"; and

(2) by adding at the end thereof the following new subsection:

Regulations.

"(b)(1) Notwithstanding any other provision of this Act, if a warehouseman because of a temporary shortage lacks sufficient space to store the agricultural products of all depositors in a licensed warehouse, the warehouseman may, in accordance with regulations issued by the Secretary of Agriculture and subject to such terms and conditions as the Secretary may prescribe, transfer stored agricultural products for which receipts have been issued out of such warehouse to another licensed warehouse for continued storage.

100 STAT. 55

"(2) The warehouseman of a licensed warehouse from which agricultural products have been transferred under paragraph (1) shall deliver to the rightful owner of such products, on request, at the licensed warehouse where first deposited, such products in the amount, and of the kind, quality, and grade, called for by the receipts or other evidence of storage of such owner.".

SEC. 15. PLAN FOR THE USE OF AFRICA FAMINE RELIEF.

99 Stat. 28.

Title II of the Act of April 4, 1985, entitled "An Act Making urgent supplemental appropriations for the fiscal year ending September 30, 1985, for emergency famine relief and recovery in Africa, and for other purposes", Public Law 99-10, is amended by striking out "the Administrator" and all that follows through "Africa." and inserting in lieu thereof the following: "the President certifies that the use of such funds is essential to famine relief in Africa. The Administrator of the Agency for International Development shall prepare and submit to Congress before April 15, 1986, a plan specifying how such additional funds for African famine relief would be used. The plan shall ensure, among other things, that the funds for the reserve, if utilized, shall be available to cover all costs for inland transportation of food only as are necessary for its timely delivery.".

SEC. 16. ESTIMATION OF COMMODITY CREDIT CORPORATION UNCOMMITTED STOCK.

99 Stat. 1467.
7 USC 1431.

Section 416(b)(10)(B) of the Agricultural Act of 1949 is amended—

(1) by inserting before the period at the end of the second sentence the following: "or, in the case of fiscal year 1986, prior to March 31, 1986"; and

(2) by inserting before the period at the end of the third sentence the following: "or, in the case of fiscal year 1986, March 31, 1986".

Approved March 20, 1986.

LEGISLATIVE HISTORY—H.R. 1614 (S. 822) (S. 2143):

HOUSE REPORT No. 99-146 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 131 (1985): June 5, considered and passed House.
Vol. 132 (1986): Mar. 6, considered and passed Senate, amended, in lieu of S. 2143; House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, No. 12 (1986): Mar. 20, Presidential statement.

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100 STAT. 923

Public Law 99-409
99th Congress

An Act

Aug. 28, 1986
[H.R. 4331]

To authorize the Secretary of Agriculture to make grants for the purpose of establishing institutes of rural technology development.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rural Industrial Assistance Act of 1986.
7 USC 1921 note.

Section 1. That this Act may be cited as the "Rural Industrial Assistance Act of 1986".

Sec. 2. Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by—

Loans.

(1) adding at the end of subsection (a) the following: "No loan may be made, insured, or guaranteed under this subsection that exceeds $25,000,000 in principal amount."; and

Effective date.

(2) effective on October 1, 1986, adding at the end thereof the following:

"(f)(1) The Secretary may make grants under this subsection to public and nonprofit private institutions for the purpose of enabling them to establish and operate centers of rural technology development that have, as a primary objective, the improvement of the economic condition of rural areas by promoting the development (through technological innovation and adaptation of existing technology) and commercialization of (A) new products that can be produced in rural areas, and (B) new processes that can be used in such production.

"(2) Grants under this subsection may be made on a competitive basis. In making grants, the Secretary shall give preference to applicants that will establish centers for rural technology in areas that have (A) few industries and agribusinesses, (B) high levels of unemployment, (C) high rates of out-migration of people, business, and industries, and (D) low levels of per capita income.

"(3) If grants are to be made under this subsection, the Secretary shall issue regulations implementing this subsection that shall include provisions for the monitoring and evaluation of the rural technology development activities carried out by institutions that receive grants under this subsection.". Regulations.

Approved August 28, 1986.

LEGISLATIVE HISTORY—H.R. 4331:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Mar. 6, considered and passed House.
Aug. 15, considered and passed Senate.

Public Law 99-272
99th Congress

100 STAT. 82

An Act

To provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress).

Apr. 7, 1986
[H.R. 3128]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consolidated Omnibus Budget Reconciliation Act of 1985.

SHORT TITLE

SECTION 1. This Act may be cited as the "Consolidated Omnibus Budget Reconciliation Act of 1985".

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TITLE I—AGRICULTURE PROGRAMS

Subtitle A—Agricultural Program Savings

SEC. 1001. AGRICULTURAL PROGRAM SAVINGS.

The expenditures and outlays resulting from the provisions of title XI (relating to the export sales of dairy products) and title XIII (relating to emergency disaster loans and loan authorizations under the Agricultural Credit Insurance Fund) of the Food Security Act of 1985 (H.R. 2100, 99th Congress) shall be counted for purposes of determining savings under the Consolidated Omnibus Budget Reconciliation Act of 1985 as having been enacted under this Act.

99 Stat. 1465, 1518.

100 STAT. 83

Subtitle B—Tobacco Program Improvements

7 USC 1445 note.

SEC. 1101. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

State and local governments.

(1) the maintenance of a viable tobacco price support and production adjustment program is in the interests of tobacco producers, purchasers of tobacco, persons employed directly or indirectly by the tobacco industry, and the localities and States whose economies and tax bases are dependent on the tobacco industry;

(2) the present tobacco price support program is in jeopardy and in need of reform;

(3) under present law, the levels of price support for tobacco have resulted in market prices for tobacco that are not competitive on the world market;

(4) as a consequence, extremely large quantities of domestic tobacco have been put under loan and placed in the inventories of the producer-owned cooperative marketing associations that administer the tobacco price support program;

(5) the increased inventories have led to a significant increase in the assessments producers are required to pay to maintain the tobacco price support program on a "no net cost" basis;

(6) such increasingly large assessments are creating a severe hardship on producers;

(7) the existence of such large inventories poses a threat to the orderly marketing of future crops of tobacco;

(8) inventories of producer associations must be significantly reduced or the tobacco price support program will collapse;

(9) the Commodity Credit Corporation is threatened with substantial losses on disposition of these inventories should the tobacco price support program collapse;

(10) it is imperative that such excess inventories of tobacco be disposed of, under the supervision of the Secretary of Agriculture, in a manner that—

(A) will not disrupt the orderly marketing of new tobacco crops;

(B) will minimize any losses to the Federal Government; and

(C) will be fair and equitable to all tobacco producers and purchasers;

(11) the mutual cooperation of tobacco producers, tobacco purchasers, producer associations, and the Secretary of Agriculture is necessary—

(A) to restore the tobacco price support program to a stable condition; and

(B) to prevent substantial losses to taxpayers that would result from the collapse of the program;

Commerce and trade.

(12) restoration of stability to the tobacco price support program through a sharing of the cost of that program by purchasers of tobacco along with producers of tobacco is necessary to prevent undue burdens on, or obstruction of, interstate and foreign commerce in tobacco; and

(13) the system of grading tobacco should be thoroughly reviewed to ensure that grades are assigned to tobacco that properly state the quality of such tobacco.

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(b) Purposes.—The purposes of this subtitle are—

(1) to encourage cooperation among tobacco producers, tobacco purchasers, and the Secretary of Agriculture in reducing tobacco price support levels, assessment costs, the size of inventories of producer associations, and the exposure of taxpayers to large budget outlays;

(2) to adjust the method by which price support levels and production quotas are calculated to reflect actual market conditions;

(3) to facilitate the purchase and sale of Flue-cured and Burley tobacco presently in the inventories of producer associations through which producers of Flue-cured and Burley tobacco are provided price support;

(4) to provide that purchasers and producers of domestic tobacco share equally in the cost of maintaining the tobacco price support program at no net cost to the taxpayers; and

(5) to expedite reform of the system of grading tobacco so that grades assigned to tobacco more accurately reflect the quality of such tobacco.

SEC. 1102. PRICE SUPPORT ADJUSTMENTS.

(a) In General.—Effective for the 1985 and subsequent crops of tobacco, section 106(f) of the Agricultural Act of 1949 (7 U.S.C. 1445(f)) is amended by striking out paragraphs (4) and (5) and inserting in lieu thereof the following new paragraphs:

99 Stat. 818.

"(4) For the 1985 and 1986 crops of Burley tobacco, the support level shall be $1.488 per pound.

"(5) For the 1986 crop of Flue-cured tobacco, the support level shall be $1.438 per pound.

"(6)(A) Except as provided in subparagraph (B), for the 1986 and each subsequent crop of any kind of tobacco (other than Flue-cured and Burley tobacco) for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, the amount by which—

"(i) the support level for the crop for which the determination is being made, as determined under subsection (b); is greater or less than

"(ii) the support level for the immediately preceding crop, as determined under subsection (b),

as that difference may be adjusted by the Secretary under subsection (d) if the support level under clause (i) is greater than the support level under clause (ii).

"(B) Notwithstanding subparagraph (A) and subsection (d), if requested by the board of directors of an association through which price support for the respective kind of tobacco specified in subparagraph (A) is made available to producers, the Secretary may reduce the support level for such kind of tobacco to the extent requested by the association to more accurately reflect the market value and improve the marketability of such tobacco.

"(7)(A) For the 1987 and each subsequent crop of Flue-cured and Burley tobacco for which marketing quotas are in effect or are not disapproved by producers, the support level shall be the level in cents per pound at which the immediately preceding crop was supported, plus or minus, respectively, an adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of—

100 STAT. 85

"(i) 66.7 percent of the amount by which—

"(I) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than

"(II) the average price received by producers for Flue-cured and Burley tobacco, respectively, on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

"(ii) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

"(B) For purposes of subparagraph (A)—

"(i) the average market price for Burley tobacco for the 1985 marketing year shall be reduced by $0.039 per pound;

"(ii) the average market price for Burley tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound;

"(iii) the average market price for Flue-cured tobacco for the 1985 marketing year shall be reduced by $0.25 per pound;

"(iv) the average market price for Flue-cured tobacco for the 1984 and each prior applicable marketing year shall be reduced by $0.30 per pound; and

"(v) the index of prices paid by tobacco producers shall include items representing general, variable costs of producing tobacco, as determined by the Secretary, but shall not include the cost of land, risk, overhead, management, purchase or leasing of quotas, marketing contributions or assessments, and other costs not directly related to the production of tobacco.".

(b) CERTAIN GRADES OF FLUE-CURED TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is further amended by striking out subsection (g).

SEC. 1103. DETERMINATION OF MARKETING QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) DEFINITIONS.—Section 301(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)) is amended—

(1) by adding at the end of paragraph (14) the following new subparagraphs:

100 STAT. 86

"(C) 'Reserve stock level', in the case of Flue-cured tobacco, shall be the greater of—

"(i) 100,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Flue-cured tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

"(D) 'Reserve stock level', in the case of Burley tobacco, shall be the greater of—

"(i) 50,000,000 pounds (farm sales weight); or

"(ii) 15 percent of the national marketing quota for Burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined."; and

(2) by adding at the end thereof the following new paragraph:

"(17) 'Domestic manufacturer of cigarettes' means a person that produces and sells more than 1 percent of the cigarettes produced and sold in the United States.".

(b) FLUE-CURED TOBACCO.—Section 317(a)(1) of such Act (7 U.S.C. 1314c(a)(1)) is amended—

(1) by striking out " 'National marketing quota' " in the first sentence and inserting in lieu thereof "(A) Except as provided in subparagraph (B), 'national marketing quota' "; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) For the 1986 and each subsequent crop of Flue-cured tobacco, 'national marketing quota' for a marketing year means the quantity of Flue-cured tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Flue-cured tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

Post, p. 88.

Exports.

"(ii) the average annual quantity of Flue-cured tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

Loans.

"(iii) the quantity, if any, of Flue-cured tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventory of the producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco to establish or maintain such inventory at the reserve stock level for Flue-cured tobacco.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Flue-cured tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Flue-cured tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year.".

(c) BURLEY TOBACCO.—Section 319 of such Act (7 U.S.C. 1314e) is amended—

(1) in subsection (c)—

(A) by striking out "The national marketing quota" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (3), the national marketing quota";

(B) by striking out the second sentence;

(C) by designating the third sentence as paragraph (2); and

(D) by adding at the end thereof the following new paragraphs:

"(3)(A) For the 1986 and each subsequent crop of Burley tobacco, the national marketing quota for any marketing year shall be the quantity of Burley tobacco, as determined by the Secretary, that is not more than 103 percent nor less than 97 percent of the total of—

"(i) the aggregate of the quantities of Burley tobacco that domestic manufacturers of cigarettes estimate the manufacturers intend to purchase on the United States auction markets or from producers during the marketing year, as compiled and determined under section 320A;

Exports.

"(ii) the average annual quantity of Burley tobacco exported from the United States during the 3 marketing years immediately preceding the marketing year for which the determination is being made; and

Loans.

"(iii) the quantity, if any, of Burley tobacco that the Secretary, in the discretion of the Secretary, determines is necessary to increase or decrease the inventories of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco to establish or maintain such inventories, in the aggregate, at the reserve stock level for Burley tobacco.

"(B) In determining the quantity of Burley tobacco necessary to establish or maintain the inventories of the producer associations at the reserve stock level under subparagraph (A)(iii)—

"(i) the Secretary shall provide for initially attaining the reserve stock level over a period of 5 years; and

"(ii) any downward adjustment in such inventories of Burley tobacco may not exceed the greater of—

"(I) 35,000,000 pounds; or

"(II) 50 percent of the quantity by which—

"(aa) the total inventories of Burley tobacco of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Burley tobacco; exceed

"(bb) the reserve stock level for Burley tobacco.

Prohibition.

"(C) Notwithstanding any other provision of law—

"(i) the national marketing quota for Burley tobacco for each of the 1986 through 1989 marketing years for such tobacco shall not be less than 94 percent of the national marketing quota for such tobacco for the preceding marketing year; and

"(ii) the national marketing quota for Burley tobacco for each of the 1990 through 1993 marketing years for such tobacco shall not be less than 90 percent of the national marketing quota for such tobacco for the preceding marketing year."; and

(2) by inserting ", except in the case of Burley tobacco," after "*Provided*, That" in the fourth sentence of subsection (e).

100 STAT. 88

(d) PURCHASE INTENTIONS.—Effective for the 1986 and each subsequent crop of tobacco, such Act is amended by inserting after section 320 (7 U.S.C. 1314f) the following new section:

"SUBMISSION OF PURCHASE INTENTIONS BY CIGARETTE MANUFACTURERS

7 USC 1314g.

"SEC. 320A. (a)(1) Not later than December 1 of any marketing year with respect to Flue-cured tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985) and January 15 of any marketing year with respect to Burley tobacco (or, in the case of the 1986 crop, 14 days after the date of enactment of such Act or January 15, 1986, whichever is later), each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured tobacco and Burley tobacco (for which a national marketing quota is in effect or for which the Secretary has proclaimed a national marketing quota for the next succeeding marketing year) that the manufacturer intends to purchase, directly or indirectly, on the United States auction markets or from producers during the next succeeding marketing year (hereafter in this section referred to as the 'quantity of intended purchases').

"(2) The Secretary shall aggregate the quantities of intended purchases in a manner that will not allow the identification of the quantity of intended purchases of any manufacturer.

"(b) If any domestic manufacturer of cigarettes fails to submit to the Secretary a statement of the quantity of intended purchases of the manufacturer, as required by this section, the Secretary shall establish the quantity of intended purchases to be attributed to such manufacturer for purposes of this Act, based on—

"(1) the quantity of intended purchases submitted by such manufacturer under this section for the marketing year immediately preceding the marketing year for which the determination is being made; or

"(2) if such manufacturer did not submit a statement of the quantity of intended purchases of the manufacturer for the marketing year immediately preceding the marketing year for which the determination is being made, the most recent information available to the Secretary.

"(c)(1) All information relating to the quantity of intended purchases that is submitted by domestic manufacturers of cigarettes under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

Confidentiality

"(2) Such information may only be disclosed by such officers or employees in a suit or administrative hearing—

"(A)(i) brought at the direction, or on the request, of the Secretary; or

"(ii) to which the Secretary or any officer of the United States is a party; and

"(B) involving enforcement of this Act.

"(3) Nothing in this section shall be considered to prohibit the publication, by direction of the Secretary, of the name of any person violating this Act, together with a statement of the particular provisions of the Act violated by such person.

"(4) Any officer or employee of the Department of Agriculture who violates this subsection, on conviction, shall be—

Penalties.

"(A) subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or to both; and

"(B) removed from office.

"(d) Notwithstanding any other provision of law, a statement of the quantity of intended purchases that is submitted under this section shall be exempt from disclosure under section 552 of title 5, United States Code.".

SEC. 1104. MARKETING QUOTA ANNOUNCEMENT DATE; PROCLAMATION OF QUOTAS FOR FLUE-CURED AND BURLEY TOBACCO.

(a) In General.—Section 312 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1312) is amended—

(1) by striking out "and February 1 of any marketing year with respect to other kinds of tobacco" in the matter preceding clause (1) of subsection (a) and inserting in lieu thereof "February 1 of any marketing year with respect to Burley tobacco, and March 1 of any marketing year with respect to other kinds of tobacco"; and

(2) by striking out "and not later than the first day of February with respect to other kinds of tobacco" in the first sentence of subsection (b) and inserting in lieu thereof ", not later than the first day of February with respect to Burley tobacco, and not later than the first day of March with respect to other kinds of tobacco".

(b) Dark Air-cured and Fire-cured Tobacco.—Section 319(b) of such Act (7 U.S.C. 1313e(b)) is amended by striking out "February 1" each place it appears in the fourth paragraph and inserting in lieu thereof "March 1".

7 USC 1314e.

(c) Proclamation of Quota for Flue-cured Tobacco.—Section 317(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(d)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Flue-cured tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Flue-cured tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

(d) Proclamation of Quota for Burley Tobacco.—Section 319(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(a)) is amended by adding at the end thereof the following new sentences: "Notwithstanding any other provision of law, for the 1986 marketing year, the Secretary shall proclaim the national marketing quota for Burley tobacco not later than 21 days after the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985 or February 1, 1986, whichever is later. Any proclamation with respect to the national marketing quota for the 1986 marketing year for Burley tobacco made by the Secretary prior to such date of enactment shall become void on enactment of such Act.".

SEC. 1105. REDUCTION IN EXCESS TOBACCO NOT SUBJECT TO MARKETING PENALTY.

(a) PENALTY ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 is amended—

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(1) by striking out "110" in section 317(g)(1) (7 U.S.C. 1314c(g)(1)) and inserting in lieu thereof "103"; and

(2) by striking out "110" in section 319(i)(1) (7 U.S.C. 1314e(i)(1)) and inserting in lieu thereof "103".

(b) PRICE SUPPORT ON EXCESS TOBACCO.—Effective for the 1986 and subsequent crops of tobacco, section 106(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445(c)(1)) is amended by striking out "110" and inserting in lieu thereof "103".

SEC. 1106. PURCHASE REQUIREMENTS; PENALTY.

(a) IN GENERAL.—Effective for the 1986 and subsequent crops of tobacco, the Agricultural Adjustment Act of 1938 (as amended by section 1103(d)) is further amended by inserting after section 320A the following new section:

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"PURCHASE REQUIREMENTS; PENALTY

7 USC 1314h.

"SEC. 320B. (a)(1) At the conclusion of each marketing year, on or before a date prescribed by the Secretary, each domestic manufacturer of cigarettes shall submit to the Secretary a statement, by kind, of the quantity of Flue-cured and Burley quota tobacco purchased, directly or indirectly, by such manufacturer during such marketing year.

Loans.

"(2) The statement shall include, but not be limited to, the quantity of each such kind of tobacco purchased by the manufacturer on the United States auction markets, from producers, and from the inventories of tobacco from the 1985 and subsequent crops of the producer-owned cooperative marketing associations that have entered into loan agreements with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco.

"(b)(1) Except as otherwise provided in this subsection, any domestic manufacturer of cigarettes that fails, as determined by the Secretary after notice and opportunity for a hearing, to purchase during a marketing year on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) a quantity of Flue-cured quota tobacco and a quantity of Burley quota tobacco equal to at least 90 percent of the quantity of the intended purchases of Flue-cured tobacco and Burley tobacco, respectively, submitted by such manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under paragraph (2)) shall be subject to a penalty as prescribed in subsection (c).

Ante, p. 88.

"(2)(A) If the total quantity of Flue-cured or Burley quota tobacco, respectively, marketed by producers at auction in the United States during the marketing year in question is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for that marketing year, the quantity of intended purchases of each domestic manufacturer of cigarettes, for purposes of paragraph (1), shall be reduced by a percentage equal to the percentage by which the total quantity marketed at auction in the United States during the marketing year is less than the national marketing quota (including any adjustments for overmarketings or undermarketings) for that kind of tobacco for the marketing year.

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"(B) For purposes of this section, the term 'marketed' shall include disposition of tobacco by consigning the tobacco to a producer association described in subsection (a)(2) for a price support advance.

"(c) The amount of any penalty to be imposed on a manufacturer under this section shall be determined by multiplying—

"(1) twice the per pound assessment (as determined under section 106A or 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 or 1445-2)) for the kind of tobacco involved; by *Post*, pp. 92, 94.

"(2) the quantity by which—

"(A) the purchases by such manufacturer on the United States auction markets, from producers, or from the inventories of tobacco from the 1985 and subsequent crops of the producer associations described in subsection (a)(2) of Flue-cured and Burley quota tobacco, respectively, for the marketing year; are less than

"(B) 90 percent of the quantity of intended purchases of such kinds of tobacco, respectively, submitted by the manufacturer or established by the Secretary for such manufacturer for that marketing year under section 320A (as that quantity may be reduced under subsection (b)(2)). *Ante*, p. 88.

"(d)(1) An amount equivalent to the penalty collected by the Secretary under this section shall be transmitted by the Secretary to the appropriate producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured or Burley tobacco, as the case may be.

"(2) Each association to which amounts are transmitted by the Secretary under this section shall deposit such amounts in the No Net Cost Fund or Account of such association in accordance with section 106A or 106B of the Agricultural Act of 1949.

"(e) The limitations on disclosure set forth in subsections (c) and (d) of section 320A shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to the quantity of purchases of Flue-cured and Burley quota tobacco during a marketing year. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4).

"(f) As used in this section, the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.".

(b) Conforming Amendment.—Effective for the 1986 and subsequent crops of tobacco, the last sentence of section 372(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1372(b)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in section 320B, the". *Ante*, p. 90.

SEC. 1107. LEASE AND TRANSFER OF BURLEY TOBACCO QUOTAS.

Effective with respect to the 1985 and subsequent crops of Burley tobacco, the fourth proviso of section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by inserting after "July 1 of that crop year" the following: "or, if such record of the transfer is filed with the county committee after July 1, the county committee determines with the concurrence of the State committee that all interested parties agreed to such lease and transfer before July 1 and that the failure to file such record of the transfer did not result from gross negligence on the part of any party to such lease and transfer".

100 STAT. 92

SEC. 1108. ASSESSMENTS TO NO NET COST FUNDS OR ACCOUNTS.

(a) No Net Cost Fund.—Effective for the 1986 and subsequent crops of tobacco, section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (5);

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco; and";

(2) by inserting "or paid by or on behalf of purchasers" after "producer-members" in the second sentence of subsection (c);

(3) in subsection (d)—

(A) by striking out "and" at the end of clause (i) of paragraph (1)(A);

(B) by inserting after clause (ii) of paragraph (1)(A) the following new clause:

"(iii) each purchaser of Flue-cured and Burley quota tobacco shall pay to the appropriate association, for deposit in the Fund of the association, an assessment, in an amount determined from time to time by the association with the approval of the Secretary, with respect to purchases of all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association); and";

(C) by striking out "The" in the last sentence of paragraph (1) and inserting in lieu thereof the following: "The amount of producer contributions and purchaser assessments shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Fund of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The";

(D) by inserting "and assessments" after "contributions" in the last sentence of paragraph (1);

(E) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) require that any producer contribution or purchaser assessment due under paragraph (1) shall be collected—

"(A) from the person who acquired the tobacco involved from the producer, except that if the tobacco is marketed by sale, an amount equal to the producer contribution may be deducted by the purchaser from the price paid to such producer;

"(B) if the tobacco involved is marketed by a producer through a warehouseman or agent, from such warehouseman or agent, who may—

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"(i) deduct an amount equal to the producer contribution from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser; and

"(C) if the tobacco involved is marketed by a producer directly to any person outside the United States, from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser;";

(F) by striking out "producers who contribute" in the proviso of paragraph (3) and inserting in lieu thereof "producers and purchasers who contribute or pay";

(G) by striking out "and" at the end of paragraph (5);

(H) by inserting "effective for the 1982 through 1985 crops of quota tobacco," after the paragraph designation in paragraph (6);

(I) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(J) by inserting after paragraph (6) the following new paragraph:

"(7) effective for the 1986 and subsequent crops of quota tobacco, provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceeds the amounts necessary for the purposes specified in this section, the association, with the approval of the Secretary, may suspend the payment and collection of contributions and assessments under this section on terms and conditions established by the association, with the approval of the Secretary."; and Loans.

(4) by adding at the end thereof the following new subsection:

"(h)(1)(A) Each person who fails to collect any contribution or assessment as required by subsection (d)(2) and remit such contribution or assessment to the association, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed. Courts, U.S.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based. Courts, U.S.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection. Courts, U.S.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the appropriate association, for deposit in the Fund of such association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

100 STAT. 94

(b) No Net Cost Account.—Effective for the 1986 and subsequent crops of tobacco, section 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-2) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (6);

(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) the term 'purchaser' means any person who purchases in the United States, either directly or indirectly for the account of such person or another person, Flue-cured or Burley quota tobacco.";

(2) by inserting "and purchasers" after "producers" in subsection (c)(1);

(3) in subsection (d)—

(A) by inserting at the end of paragraph (1) the following new sentence: "The Secretary shall also require (in lieu of any requirement under section 106A(d)(1)) that each purchaser of Flue-cured and Burley quota tobacco shall pay to the Corporation, for deposit in the Account of such association, an assessment, as determined under paragraph (2) and collected under paragraph (3), with respect to purchases of *Ante*, p. 92

all such kind of tobacco marketed by a producer from a farm (including purchases of such tobacco from the 1986 and subsequent crops from the association).";

(B) by striking out "area. Such amount" in paragraph (2)(A) and inserting in lieu thereof "area and the amount of the assessment to be paid by purchasers of tobacco. The amount of the assessment to be paid by producers and purchasers shall be determined in such a manner that producers and purchasers share equally, to the maximum extent practicable, in maintaining the Account of an association. In making such determination with respect to the assessment of a purchaser, only 1985 and subsequent crops of Flue-cured and Burley quota tobacco shall be taken into account. The amount of the assessment";

Loans.

(C) by inserting at the end of paragraph (2)(A) the following: "Notwithstanding the foregoing provisions of this paragraph, the amount of any assessment that is determined by the Secretary for the 1986 and subsequent crops of Burley quota tobacco shall be determined without regard to any net losses that the Corporation may sustain under the loan agreements of the Corporation with such association with respect to the 1983 crop of such tobacco."; and

(D) by amending paragraph (3) to read as follows:

Marketing.

"(3)(A) Except as provided in subparagraphs (B) and (C), any assessment to be paid by a producer or a purchaser under paragraph (1) shall be collected from the person who acquired the tobacco involved from such producer, except that if the tobacco is marketed by sale, an amount equal to the producer assessment may be deducted by the purchaser from the price paid to such producer.

Marketing.

"(B) If tobacco of the kind for which an Account is established is marketed by a producer through a warehouseman or agent, both the producer and the purchaser assessment shall be collected from such warehouseman or agent, who may—

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"(i) deduct an amount equal to the producer assessment from the price paid to the producer; and

"(ii) add an amount equal to the purchaser assessment to the price paid by the purchaser.

Marketing.

"(C) If tobacco of the kind for which an Account is established is marketed by a producer directly to any person outside the United States, both the producer and the purchaser assessment shall be collected from the producer, who may add an amount equal to the purchaser assessment to the price paid by the purchaser."; and

(4) by adding at the end thereof the following new subsection:

"(j)(1)(A) Each person who fails to collect any assessment as required by subsection (d)(3) and remit such assessment to the Corporation, at such time and in such manner as may be prescribed by the Secretary, shall be liable, in addition to any amount due, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco involved for the immediately preceding year on the quantity of tobacco as to which the failure occurs.

"(B) The Secretary may reduce any such marketing penalty in such amount as the Secretary determines equitable in any case in which the Secretary determines that the failure was unintentional or without knowledge on the part of the person concerned.

"(C) Any penalty provided for under this paragraph shall be assessed by the Secretary after notice and opportunity for a hearing.

Courts, U.S.

"(2)(A) Any person against whom a penalty is assessed under this subsection may obtain review of such penalty in an appropriate district court of the United States by filing a civil action in such court not later than 30 days after such penalty is imposed.

Courts, U.S.

"(B) The Secretary shall promptly file in such court a certified copy of the record on which the penalty is based.

Courts, U.S.

"(3) The district courts of the United States shall have jurisdiction to review and enforce any penalty imposed under this subsection.

"(4) An amount equivalent to any penalty collected by the Secretary under this subsection shall be transmitted by the Secretary to the Corporation, for deposit in the Account of the appropriate association.

"(5) The remedies provided in this subsection shall be in addition to, and not exclusive of, other remedies that may be available.".

7 USC 1301 note

(c) IMPLEMENTATION.—The Secretary of Agriculture shall implement sections 1102 through 1109, and the amendments made by such sections, without regard to the provisions requiring notice and other procedures for public participation in rulemaking contained in section 553 of title 5, United States Code, or in any directive of the Secretary.

(d) CONFORMING AMENDMENT.—The section heading of section 106A of the Agricultural Act of 1949 (7 U.S.C. 1445-1) is amended to read as follows:

"PRODUCER CONTRIBUTIONS AND PURCHASER ASSESSMENTS FOR NO NET COST TOBACCO FUND".

SEC. 1109. PURCHASE OF INVENTORY STOCK.

7 USC 1445-3.

Notwithstanding any other provision of law, in order to reduce or eliminate the excessive inventories of Flue-cured and Burley tobacco held by associations from the 1976 through 1984 crops, and in order to provide for the orderly disposition of such excessive inventories of tobacco in a manner that will not disrupt the orderly marketing of new tobacco crops and will minimize any losses to the Federal Government:

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Corporation.
Loans.

(a) SALE OF INVENTORY STOCK.—(1) The producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Flue-cured tobacco shall offer to sell the stocks of Flue-cured tobacco of the association from the 1976 through 1984 crops as provided in this section.

(2) Each producer-owned cooperative marketing association that has entered into a loan agreement with the Commodity Credit Corporation to make price support available to producers of Burley tobacco shall offer to sell its stocks of Burley tobacco from the 1982 and 1984 crops as provided in this section.

Loans.

(3)(A)(i) Not later than 30 days after the date of enactment of this subtitle, the Commodity Credit Corporation shall acquire title to the Burley tobacco from the 1983 crop that is pledged as security for loans on such tobacco by calling the loans on such tobacco.

(ii) The Corporation shall, then, offer such tobacco for sale at such times, in such quantities, and subject to such conditions as the Corporation considers appropriate.

(B) If the Commodity Credit Corporation has not sold all of the stocks of the 1983 crop of Burley tobacco within 2 years from the date the Corporation calls the loans on such tobacco, the Corporation may offer to sell to domestic manufacturers of cigarettes the remaining stocks of such tobacco as provided in this section.

(b) SALE PRICES.—(1)(A) The stocks of Flue-cured tobacco from the 1976 through 1984 crops shall be offered for sale at the base prices, including carrying charges, in effect as of the date of the offer, reduced by—

(i) 90 percent for Flue-cured tobacco from the 1976 through 1981 crops; and

(ii) 10 percent for Flue-cured tobacco from the 1982 through 1984 crops.

(B) The purchasers of the stocks of Flue-cured tobacco from the 1976 through 1984 crops shall pay the full carrying charges that have accrued to such tobacco from the date of the offer made under this section to the date that such tobacco is removed from the inventory of the association.

(2)(A) The stocks of Burley tobacco from the 1982 crop shall be offered for sale at the listed base price in effect as of July 1, 1985.

(B) The stocks of Burley tobacco from the 1984 crop shall be offered for sale at the costs of the association for such tobacco as of the date of enactment of this subtitle.

(C) The purchasers of the stocks of Burley tobacco from the 1982 crop shall pay the full carrying charges that have accrued to such tobacco.

(D) The purchasers of the stocks of Burley tobacco from the 1984 crop shall pay the full carrying charges that have accrued to such tobacco from the date of enactment of this subtitle to the date such tobacco is removed from the inventories of the associations.

(3)(A) After the 2-year period specified in subsection (a)(3)(B) has expired, if the Commodity Credit Corporation offers to sell the stocks of the Corporation of Burley tobacco from the 1983 crop to domestic manufacturers of cigarettes, such stocks shall be offered for sale at the costs of the association, including carrying charges, as of the date on which the Corporation calls the loans on such tobacco, reduced by 90 percent.

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(B) Neither tobacco producers nor tobacco purchasers shall be responsible for carrying charges that accrue to the 1983 crop of Burley tobacco after the date on which the Commodity Credit Corporation calls the loans on such tobacco.

(c) TERMS OF AGREEMENTS.—(1)(A) Each domestic manufacturer of cigarettes may enter into agreements to purchase inventory stocks of Flue-cured and Burley tobacco, in accordance with this section.

(B) To be eligible for the reductions in price specified in this section, such manufacturer shall enter into such agreements as soon as practicable, but not later than 90 days after the date of enactment of this subtitle, except that, with respect to the 1983 crop of Burley tobacco, if the Corporation offers to sell the stocks of such tobacco pursuant to subsection (b)(3)(A), such agreements shall be entered into as soon as practicable, but not later than 90 days after the end of the 2-year period referred to in subsection (a)(3)(B).

(C)(i) Such agreements shall provide that, over a period of time, each participating domestic manufacturer of cigarettes shall purchase a percentage of the stocks of Flue-cured and Burley tobacco held—

(I) by the producer-owned cooperative marketing associations at the close of the 1984 marketing year; or

(II) in the case of the 1983 crop of Burley tobacco, by the Commodity Credit Corporation at the time the Corporation offers such tobacco for sale to domestic manufacturers of cigarettes under this section.

(ii) The period of time referred to in clause (i) may not exceed—

(I) in the case of Flue-cured tobacco, 8 years from the date of enactment of this subtitle;

(II) in the case of Burley tobacco from the 1982 and 1984 crops, 5 years from the date of enactment of this subtitle; and

(III) in the case of the 1983 crop of Burley tobacco, 5 years from the end of the 2-year period referred to in subsection (a)(3)(B).

(2)(A)(i) The percentage to be purchased by each participating manufacturer shall be at least equal to the respective percentage of the participating manufacturer of the total quantity of net cigarettes manufactured for use as determined by the Secretary of Agriculture under this paragraph on the basis of the monthly reports ("Manufacturer of Tobacco Products—Monthly Reports") submitted (on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury.

(ii) The Secretary of Agriculture shall request from the Secretary of the Treasury copies of such monthly reports necessary to make the determinations required under this section.

(iii) Notwithstanding any other provision of law, the Secretary of the Treasury may release and disclose such information to the Secretary of Agriculture.

(B) "Net cigarettes manufactured for use" shall be computed by subtracting—

(i) the cumulative figures entered for large and small cigarettes in item 16f of ATF Form 3068 ("Reduction to tobacco"); from

(ii) the cumulative figures entered for large and small cigarettes in item 7 of such form ("Manufactured").

(C)(i) The percentage to be purchased by each participating manufacturer shall be determined— 100 STAT. 98

(I) on the date of enactment of this subtitle; and

(II) annually thereafter over the course of the respective buy-out periods specified in this subsection.

(ii) Such percentage shall be determined by dividing—

(I) the average net cigarettes manufactured by a manufacturer for use for the 12-month period immediately preceding the appropriate determination date (the date of enactment of this subtitle and annually thereafter over the course of the respective buy-out periods specified in this subsection); by

(II) the aggregate average net cigarettes manufactured by all domestic cigarette manufacturers for use for such 12-month period.

(D)(i) The quantity of tobacco to be purchased by each participating manufacturer shall be determined annually.

(ii) Such quantity shall be based on—

(I) the percentage of net cigarettes of a manufacturer manufactured for use, as determined under subparagraph (C); multiplied by

(II) the appropriate annual quantity to be withdrawn from the inventories of the associations or the Commodity Credit Corporation.

(iii) The appropriate annual quantity to be withdrawn from inventories shall be—

(I) 12½ percent of the inventories of Flue-cured tobacco from the 1976 through 1984 crops on hand on the date of enactment of this subtitle;

(II) 20 percent of the inventories of Burley tobacco from the 1982 and 1984 crops on hand on the date of enactment of this subtitle; and

(III) 20 percent of the inventories of Burley tobacco from the 1983 crop held by the Commodity Credit Corporation on the date that is 2 years after the call of the loans on such tobacco by the Corporation.

(E) Any purchases by a manufacturer from the inventories of the associations or from the Commodity Credit Corporation for a crop covered by this section in any year of the buy-out period that exceed the quantity of the purchases of the manufacturer required under the agreement, as determined under this section, shall be applied against future purchases required of such manufacturer.

(3) In carrying out this section, manufacturers may confer with one another and, separately or collectively, with associations, the Secretary of Agriculture, and the Commodity Credit Corporation, as may be necessary or appropriate to carry out this section and the purposes of this subtitle.

(d) Approval of Agreements.—(1)(A) Each agreement entered into under this section shall be submitted to the Secretary of Agriculture for review and approval.

(B) In the case of an agreement to purchase tobacco from the inventory of a producer association, the agreement shall be submitted by the association.

(C) No agreement may become effective until approved by the Secretary.

(2) The Secretary of Agriculture shall not approve any agreement submitted under this section unless the Secretary has determined that—

(A) the agreement—

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(i) will not unduly impair or disrupt the orderly marketing of current and future tobacco crops during the term of the agreement; and

(ii) is otherwise consistent with the purposes of this subtitle; and

(B) the price and other terms of sale are uniform and nondiscriminatory among various purchasers.

(e) DISCLOSURE.—The limitations on disclosure set forth in subsections (c) and (d) of section 320A of the Agricultural Adjustment Act of 1938 (as added by section 1103(d)) shall apply to information submitted by domestic manufacturers of cigarettes under this section with respect to net cigarettes manufactured for use, including information provided on ATF Form 3068. Any officer or employee of the Department of Agriculture who violates such limitations on disclosure shall be subject to the penalties set forth in section 320A(c)(4) of such Act.

SEC. 1110. REVIEW OF TOBACCO GRADING SYSTEM AND DISASTER CROP DESIGNATION.

(a) STUDY.—(1)(A) The Secretary of Agriculture shall conduct a comprehensive study of the methods and procedures for grading tobacco marketed in the United States.

(B) In carrying out such study, the Secretary shall evaluate, among other things—

(i) the extent to which grades assigned to tobacco accurately reflect the quality of such tobacco;

(ii) the extent to which the number of grades of tobacco affects the operation of the grading system; and

(iii) the competence and independence of tobacco graders.

(2) The Secretary shall also study the feasibility and desirability of—

(A) providing for a grade that would be used to designate tobacco that is of such poor quality as a result of a natural disaster as to affect substantially the marketability of such tobacco; and

(B) establishing a price support level, if any, for such tobacco that may be adjusted by the Secretary as necessary to facilitate the sale of such tobacco and protect the no net cost funds or accounts.

Congress.

(b) REPORT.—(1) Not later than 120 days after the date of enactment of this subtitle, the Secretary of Agriculture shall report the results of the studies required under subsection (a), together with any recommendations for necessary legislation, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) As soon as practicable after submission of the report required under paragraph (1), but not later than the opening of the marketing season for the 1986 crop of Flue-cured tobacco, the Secretary shall implement any recommendations made in such report that may be implemented by the Secretary under existing authority.

SEC. 1111. INVESTMENT OF TOBACCO INSPECTION FEES.

Section 5 of the Tobacco Inspection Act (7 U.S.C. 511d) is amended—

(1) by inserting "late payment penalties, and interest earned from the investment of such funds," after "The fees and charges," in the ninth sentence;

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(2) by inserting after the ninth sentence the following new sentences: "Any funds realized from the collection of fees or charges authorized under this section and section 6 and credited to the current appropriation account incurring the cost of services provided under this section and section 6, late payment penalties, and interest earned from the investment of such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of

7 USC 511e.

the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any income realized from this activity may be used to pay the expenses of the Secretary of Agriculture incident to providing services under this Act or reinvested in the manner authorized in the preceding sentence."; and

(3) by striking out "Such fees and charges" in the tenth sentence (as it existed before the amendment made by clause (2)) and inserting in lieu thereof "The fees and charges authorized in this section".

SEC. 1112. EFFECTIVE DATE.

7 USC 1445 note.

Except as otherwise provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this subtitle.

TITLE II—ARMED SERVICES AND DEFENSE-RELATED PROGRAMS

SEC. 2001. COLLECTION BY THE UNITED STATES OF INPATIENT HOSPITAL COSTS INCURRED ON BEHALF OF CERTAIN PERSONS.

(a) IN GENERAL.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents

10 USC 1095.

"(a)(1) In the case of a person who is covered by section 1074(b), 1076(a), or 1076(b) of this title, the United States shall have the right to collect from a third-party payer the reasonable costs of inpatient hospital care incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such costs on the person's own behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is the reasonable cost of the care provided less the appropriate deductible or copayment amount.

Insurance.
Health and medical care.
99 Stat. 656.
10 USC 1076.

"(2) A person covered by section 1074(b), 1076(a), or 1076(b) of this title may not be required to pay an additional amount to the United States for inpatient hospital care by reason of this section.

"(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care if that care is provided through a facility of the uniformed services shall operate to prevent collection by the United States under subsection (a).

Prohibition.

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"(c) Under regulations prescribed under subsection (f), records of the facility of the uniformed services that provided inpatient hospital care to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

"(d) Notwithstanding subsections (a) and (b), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

42 USC 1396.

"(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

"(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

Regulations.

"(f) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of inpatient hospital care. Computation of such reasonable cost may be based on—

"(1) per diem rates; or

"(2) such other method as may be appropriate.

"(g) In this section, 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract or agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Collection from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents.".

10 USC 1095 note.

(b) EFFECTIVE DATE.—Section 1095 of title 10, United States Code, as added by subsection (a), shall apply with respect to inpatient hospital care provided after September 30, 1986, but only with respect to an insurance, medical service, or health plan agreement entered into, amended, or renewed on or after the date of the enactment of this Act.

SEC. 2002. EXTENSION OF DEADLINE FOR REPORT ON USE BY CHAMPUS SYSTEM OF MEDICARE PROSPECTIVE PAYMENT PROGRAM.

Section 634(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2544), is amended by striking out "February 28, 1985" and inserting in lieu thereof "June 30, 1986".

Housing and Community Development Reconciliation Amendments of 1985.
42 USC 5301 note.

TITLE III—HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

SEC. 3001. SHORT TITLE AND TABLE OF SECTIONS.

(a) SHORT TITLE.—This title may be cited as the "Housing and Community Development Reconciliation Amendments of 1985".

(b) TABLE OF SECTIONS.—

Sec. 3001. Short title and table of sections.
Sec. 3002. Purchase of CDBG guaranteed obligations by the Federal Financing Bank.
Sec. 3003. Public housing operating subsidies.
Sec. 3004. Public and Indian housing financing reforms.
Sec. 3005. Rural housing authorizations.
Sec. 3006. Management of insured and guaranteed rural housing loans.
Sec. 3007. Extension of Federal Housing Administration mortgage insurance programs.
Sec. 3008. Extension of rehabilitation loan authority.
Sec. 3009. Extension of rural housing authorities.
Sec. 3010. Extension of flood and crime insurance programs.
Sec. 3011. Miscellaneous extensions.

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SEC. 3002. PURCHASE OF CDBG GUARANTEED OBLIGATIONS BY THE FEDERAL FINANCING BANK.

42 USC 5308.

(a) PROHIBITION.—Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(l) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.".

42 USC 5308 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1986.

42 USC 5308 note.

(c) ADMINISTRATIVE ACTIONS.—The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974.

SEC. 3003. PUBLIC HOUSING OPERATING SUBSIDIES.

Section 9(c) of such Act is amended by striking out "and by" after "1983," and by inserting after "1984" the following: ", and not to exceed $1,279,000,000 on or after October 1, 1985". 42 USC 1437g.

SEC. 3004. PUBLIC AND INDIAN HOUSING FINANCING REFORMS.

Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection: 42 USC 1437b.

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due a public housing agency from contractors or others. Loans. Contracts.

"(2)(A) On the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1986, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b) during the fiscal year ending on such date, together with any promise to repay the principal and unpaid interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

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"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.".

SEC. 3005. RURAL HOUSING AUTHORIZATIONS.

Subsection (a)(1) of section 513 of the Housing Act of 1949 is amended to read as follows: 42 USC 1483.

"(a)(1) The Secretary may insure and guarantee loans under this title during fiscal year 1986 in an aggregate amount not to exceed $2,146,600,000, of which—

"(A) $1,209,600,000 shall be for loans under section 502; 42 USC 1472.
"(B) $17,000,000 shall be for loans under section 504; 42 USC 1474.
"(C) $19,000,000 shall be for loans under section 514; 42 USC 1484.
"(D) $900,000,000 shall be for loans under section 515; and 42 USC 1485.
"(E) $1,000,000 shall be for loans under section 524.". 42 USC 1490a.

SEC. 3006. MANAGEMENT OF INSURED AND GUARANTEED RURAL HOUSING LOANS.

(a) SALE OF INSURED AND GUARANTEED LOANS TO PUBLIC.—Section 517(c) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Any loan made and sold by the Secretary under this section after the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985 (and any loan made by other lenders under this title that is insured or guaranteed in accordance with this section, is purchased by the Secretary, and is sold by the Secretary under this section after such date) shall be sold to the public and may not be sold to the 42 USC 1487.

Federal Financing Bank, unless such sale to the Federal Financing Bank is required to service transactions under this title between the Secretary and the Federal Financing Bank occurring on or before such date.".

(b) Interest Subsidy on Insured and Guaranteed Loans Offered for Sale to Public.—Section 517(d) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (as determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.".

(c) Protection of Borrowers Under Loans Sold to Public.—Section 517(d) of the Housing Act of 1949, as amended by subsection (b) of this section, is amended by adding at the end thereof the following new paragraph:

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"(3) Each loan made by the Secretary or other lenders under this title that is insured or guaranteed in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this title;

"(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this title, including consideration for interest subsidy, moratorium, reamortization, refinancing, and appeal of any adverse decision to an impartial officer.

"(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve against future losses not less than 5 percent of the outstanding face amount of the loans held by the public at any time.".

42 USC 1487.

(d) Use of Rural Housing Insurance Fund.—Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(e) Eligibility for Guaranteed Loans.—Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

(f) Regulations.—Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

Regulations.
Marketing.

"(2) Not later than the expiration of the 90-day period following the date of the enactment of the Housing and Community Development Reconciliation Amendments of 1985, the Secretary shall issue regulations to facilitate the marketability in the secondary mortgage market of loans insured or guaranteed under this section. Such regulations shall ensure that such loans are competitive with other loans and mortgages insured or guaranteed by the Federal Government.".

SEC. 3007. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National Housing Act is amended by striking out "prior to December 16, 1985" in the first sentence and inserting in lieu thereof "not later than March 17, 1986". 12 USC 1703.

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986". 12 USC 1715h.

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715*l*.

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715z.

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

(e) CO-INSURANCE.—

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986". 12 USC 1715z-9.

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking out "on or after December 16, 1985" in the last sentence and inserting in lieu thereof "after March 17, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715z-10.

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1715z-14.

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1748h-1.

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1748h-2.

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1749bb.

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986". 12 USC 1749aaa.

SEC. 3008. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended— 42 USC 1452b.

(1) by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986"; and

(2) by striking out "prior to December 16, 1985" and inserting in lieu thereof "on or before such date".

SEC. 3009. EXTENSION OF RURAL HOUSING AUTHORITIES.

42 USC 1485.

(a) Rental Housing Loan Authority.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

42 USC 1490.

(b) Rural Area Classification.—Section 520 of the Housing Act of 1949 is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "March 17, 1986".

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42 USC 1490c.

(c) Mutual and Self-Help Housing Grant and Loan Authority.—Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

SEC. 3010. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) Flood Insurance.—

42 USC 4026.

(1) General authority.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

42 USC 4056.

(2) Emergency implementation.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

42 USC 4101.

(3) Establishment of flood-risk zones.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking out "December 15, 1985" and inserting in lieu thereof "March 17, 1986".

12 USC 1749bbb.

(b) Crime Insurance.—Section 1201(b)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the matter preceding subparagraph (A) and inserting in lieu thereof "March 17, 1986".

SEC. 3011. MISCELLANEOUS EXTENSIONS.

(a) Community Development Block Grant Classifications.—

42 USC 5302.

(1) Metropolitan city.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

(2) Urban county.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking out "December 15, 1985" in the second sentence and inserting in lieu thereof "March 17, 1986".

42 USC 1701q note.

(b) Section 202 Interest Rate Limitation.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "prior to December 16, 1985" and inserting in lieu thereof "not later than March 17, 1986".

12 USC 2811.

(c) Home Mortgage Disclosure Act of 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "December 16, 1985" and inserting in lieu thereof "March 17, 1986".

TITLE IV—TRANSPORTATION AND RELATED PROGRAMS

Subtitle A—Railroads

Amtrak Reauthorization Act of 1985.
45 USC 501 note.

SEC. 4001. SHORT TITLE.

This subtitle may be cited as the "Amtrak Reauthorization Act of 1985".

SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) in subparagraph (A) by striking out "and" after "403(b) of this Act;";

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(2) in subparagraph (B) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) not to exceed $600,000,000 for the fiscal year ending September 30, 1986;

"(D) not to exceed $606,100,000 for the fiscal year ending September 30, 1987; and

"(E) not to exceed $630,300,000 for the fiscal year ending September 30, 1988.".

(b) Limitation.—Such section 601(b) is further amended by adding at the end a new paragraph as follows: 45 USC 601.

"(5) Unless sufficient funds are otherwise available to operate the Corporation's rail system at substantially the same level of service, maintenance, and equipment overhauls in effect on the date of the enactment of this paragraph, funds appropriated to or for the benefit of the Corporation under this section before the date of the enactment of this paragraph which the Corporation has designated for nonoperational capital projects shall be used as necessary to maintain the operations of the system at such level.".

SEC. 4003. CAPITAL ASSETS.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The preferred stock issued pursuant to paragraphs (1) and (2) of this subsection shall be deemed to have been issued as of the date of receipt by the Corporation of the funds for which such stock is issued.".

SEC. 4004. GOVERNMENT TRAVEL.

Section 306(f) of the Rail Passenger Service Act (45 U.S.C. 546(f)) is amended by inserting ", which shall include allowing the Corporation to participate in the contract air program administered by the General Services Administration in markets where service provided by the Corporation is competitive as to rates and total trip times" before the period.

SEC. 4005. REPORT CONSOLIDATION.

Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended to read as follows:

"(a) The Corporation shall submit to the Congress a report not later than February 15 of each year. The report shall include, for each route on which the Corporation operated intercity rail passenger service during the preceding fiscal year, data on ridership, passenger miles, short-term avoidable profit or loss per passenger mile, revenue-to-cost ratio, revenues, the Federal subsidy, the non-Federal subsidy, and on-time performance. Such report shall also specify significant operational problems which have been identified by the Corporation, together with proposals by the Corporation to resolve such problems.".

SEC. 4006. CHARTER TRAINS.

Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended—

(1) by repealing subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

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SEC. 4007. MISCELLANEOUS AMENDMENTS.

(a) Audits.—Section 805 of the Rail Passenger Service Act (45 U.S.C. 644) is amended—

(1) in subsection (2)(A) by striking out "shall conduct annually a" in the first sentence and inserting in lieu thereof "may conduct"; and

(2) in subsections (2)(A) and (2)(B) by striking "audit" wherever it appears and inserting in lieu thereof "audits".

(b) REPEAL OF STUDIES AND REPORTS.—Sections 306(k), 806, 810, and 811 of the Rail Passenger Service Act (45 U.S.C. 546(k), 645, 649, and 650) are repealed.

(c) EMERGENCY ASSISTANCE.—Title VII of the Rail Passenger Service Act (45 U.S.C. 621 and 622) is repealed.

(d) NORTHEAST CORRIDOR REPORTS.—Section 703(1)(D) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(1)(D)) is repealed.

(e) PERFORMANCE EVALUATION CENTER.—(1) Section 305(1) of the Rail Passenger Service Act (45 U.S.C. 545(1)) is repealed.

(2) Section 305(m) of the Rail Passenger Service Act (45 U.S.C. 545(m)) is amended by striking out "Center" each place it appears and inserting in lieu thereof "Corporation".

SEC. 4008. REVENUE-COST RATIO.

Section 404(c)(4)(A) of the Rail Passenger Service Act (45 U.S.C. 564(c)(4)(a)) is amended by adding at the end the following new sentence: "Commencing in fiscal year 1986, the Corporation shall set a goal of recovering an amount sufficient that the ratio of its revenues, including contributions from States, agencies, and other persons, to costs, excluding capital costs, shall be at least 61 percent.".

45 USC 564 note.

SEC. 4009. LABOR-RELATED COST SAVINGS.

Amtrak and the representatives of employees of Amtrak shall negotiate changes in existing agreements between such parties that will result in substantial cost savings to Amtrak, and shall report the results of such negotiations to the Congress within six months after the date of enactment of this Act.

SEC. 4010. ROUTE DISCONTINUANCE.

Amtrak shall not, by reason of any provision of this subtitle, including section 4002, reduce the frequency of service on any line on which, as of May 1, 1985, three or fewer trains operated per week.

SEC. 4011. EMPLOYMENT VACANCY FILING.

(a) LIABILITY.—Section 704(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797c(c)) is amended—

(1) by inserting "(1)" after "VACANCY NOTICES.—"; and

(2) by adding at the end a new paragraph as follows:

"(2)(A) As soon as the Board becomes aware of any failure on the part of a railroad to comply with paragraph (1), the Board shall issue a warning to such railroad of its potential liability under subparagraph (B).

"(B) Any railroad failing to comply with paragraph (1) of this subsection after being warned by the Board under subparagraph (A) shall be liable for a civil penalty in the amount of $500 for each subsequent vacancy with respect to which such railroad has so failed to comply.".

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(b) EXTENSION.—Section 704(f) of such Act (45 U.S.C. 797c(f)) is amended by striking out "4-year" and inserting in lieu thereof "6-year".

45 USC 797b note.

(c) EXEMPTION.—The provisions of section 703 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797b), section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907), and section 105 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1004) shall not apply to the National Railroad Passenger Corporation in the hiring of qualified train and engine employees who hold seniority rights to work in intercity rail passenger service in connection with the assumption by such Corporation of functions previously performed under contract by other carriers.

45 USC 797c note.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (c) shall take effect on the date of enactment of this Act, and the amendment made by subsection (b) shall be effective as of August 1, 1985.

SEC. 4012. TRANSPORTATION OF USED UNOCCUPIED VEHICLES.

Section 103(3) of the Rail Passenger Service Act (45 U.S.C. 502(3)) is amended by inserting ", and, when space is available, of used unoccupied vehicles" after "and their occupants".

SEC. 4013. AMTRAK CORPORATE CITIZENSHIP.

Section 306(m) of the Rail Passenger Service Act (45 U.S.C. 546(m)) is amended by inserting "only" immediately after "citizen".

SEC. 4014. ROUTE AND SERVICE CRITERIA.

(a) ROUTE AND SERVICE CRITERIA AMENDMENTS.—The Rail Passenger Service Act is amended—

(1) in section 403(d) (45 U.S.C. 563(d))—

(A) by striking out "criteria set forth in section 404(d)(2)(B)" and inserting in lieu thereof "criterion set forth in section 404(d)(2)"; and

Post, p. 110.

(B) by inserting after the first sentence thereof the following: "Beginning October 1, 1986, if such service is not projected to meet such criterion, the Corporation may discontinue, modify, or adjust such service so that the applicable criterion will be met.";

(2) in section 404(c)(3)(B) (45 U.S.C. 564(c)(3)(B))—

(A) by striking out "60" and inserting in lieu thereof "120";

Congress.

(B) by striking out "either the Senate" and all that follows through "that it does" and inserting in lieu thereof "the Senate and the House of Representatives adopt a joint resolution during such period stating that they do"; and

(C) by adding at the end thereof the following: "For purposes of this subparagraph, continuity of session of the Congress is broken only by an adjournment sine die and the days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of such 120-day period.";

(3) by amending section 404(c)(4)(B) (45 U.S.C. 564(c)(4)(B)) to read as follows:

"(B) The Corporation shall conduct an annual review of each route in the basic system to determine if such route is projected to meet the criterion appropriate to such route set forth in subsection (d), as adjusted to reflect constant 1979 dollars. If the Corporation determines on the basis of such review that such route will not meet such criterion, the Corporation shall discontinue, modify, or adjust the operation of rail passenger service over such route so that the criterion will be met.";

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(4) in the first sentence of section 404(d)(1) (45 U.S.C. 564(d)(1))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period;

(5) in the second sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)) by striking out "and passenger mile per train mile";

(6) by striking out the last sentence of section 404(d)(1) (45 U.S.C. 564(d)(1)); and

(7) in section 404(d)(2) (45 U.S.C. 564(d)(2))—

(A) by striking out "if—" and inserting in lieu thereof "if";

(B) by striking out "(A)"; and

(C) by striking out all after "mile" the second time it appears therein and inserting in lieu thereof a period.

45 USC 563 note.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 1986.

SEC. 4015. ICC REGULATION.

Section 306(a)(3) of the Rail Passenger Service Act (45 U.S.C. 546(a)(3)) is amended by striking out ", except as otherwise provided in this Act,".

SEC. 4016. MEANING OF "DISCONTINUANCE" FOR LABOR PROTECTION PURPOSES.

Section 405(a) of the Rail Passenger Service Act (45 U.S.C. 565(a)) is amended by adding at the end thereof the following: "For purposes of subsection (c) of this section and any agreement designed to implement the provisions of such subsection, a 'discontinuance of intercity rail passenger service' shall not include any adjustment in frequency or seasonal suspension of intercity rail passenger trains the effect of which is a temporary suspension of service unless such adjustment or suspension causes a reduction of passenger train operations on a particular route to a frequency of less than three round trips per week at any time during any calendar year.".

SEC. 4017. NORTHEAST CORRIDOR COST DISPUTE DECISIONS.

(a) ICC DECISIONS.—(1) Section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) is amended to read as follows:

"(2) The Commission, in making such a determination, shall consider all relevant factors, and shall not permit cross subsidization between intercity rail passenger service and commuter rail passenger service.".

45 USC 1111 note.

(2) Any decisions of the Interstate Commerce Commission before the date of enactment of this Act under section 1163(a)(2) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1111(a)(2)) shall have no force and effect after the date of enactment of this Act.

(b) ASSIGNMENT OF COSTS.—Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended—

100 STAT. 111

(1) by inserting "(1)" immediately after "(a)";

(2) by inserting "(2)" immediately before "Notwithstanding";

(3) in the second sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "180" and inserting in lieu thereof "120";

(4) in the last sentence of paragraph (2), as so designated by paragraph (2) of this subsection, by striking out "shall consider all relevant factors, and shall not permit cross subsidization among intercity, commuter," and inserting in lieu thereof "shall not permit cross subsidization between intercity rail passenger service"; and

(5) by adding at the end of paragraph (2), as so designated by paragraph (2) of this subsection, the following: "The Commission, in making such a determination, shall assign to a freight railroad obtaining services pursuant to this paragraph the costs incurred by the Corporation solely for the benefit of that railroad, plus a proportionate share of all other costs of providing services covered by this paragraph that are incurred for the common benefit of the Corporation and such freight railroad. The proportionate share of such other costs assigned to a freight railroad shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of the rail properties covered by this paragraph. Nothing in this paragraph shall be construed to preclude parties from entering into an agreement under this paragraph either before or after a determination of the Commission under this paragraph.".

45 USC 562 note.

(c) EFFECTIVENESS OF STANDARD.—The compensation standard established by the amendment made by subsection (b) of this section shall be effective in any proceeding instituted under section 402(a)(2) of the Rail Passenger Service Act (45 U.S.C. 562(a)(2)) after the date of enactment of this Act.

(d) Congressional Policy.—Nothing in this section, or any amendment made by this section, shall be construed to alter the Congressional policy against cross subsidization among intercity, commuter, and rail freight services expressed in the last sentence of section 402(a) of the Rail Passenger Service Act, as in effect before the date of enactment of this Act. 45 USC 562 note.

SEC. 4018. LOCAL RAIL SERVICE ASSISTANCE.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

(1) by inserting after "September 30, 1984." the following: "Of the funds authorized to be appropriated under this subsection, there are authorized to be appropriated not to exceed $12,000,000 for the fiscal year ending September 30, 1986, not to exceed $10,000,000 for the fiscal year ending September 30, 1987, and not to exceed $8,000,000 for the fiscal year ending September 30, 1988."; and

(2) by adding at the end thereof the following: "No funds are authorized to be appropriated under this subsection for any period after September 30, 1988.". Prohibitions.

Subtitle B—Highway Programs

SEC. 4101. REDUCTIONS IN HIGHWAY APPORTIONMENTS.

(a) Primary System.—The first sentence of section 105(a)(1) of the Highway Improvement Act of 1982 is amended by striking out "$2,450,000,000" and inserting in lieu thereof "$2,375,000,000". 96 Stat. 2099.

(b) Bridge Replacement and Rehabilitation.—Section 202(1) of the Highway Safety Act of 1982 is amended by striking out "$2,050,000,000" and inserting in lieu thereof "$1,900,000,000". 96 Stat. 2137.

(c) Interstate 4R.—The first sentence of section 105 of the Federal-Aid Highway Act of 1978 is amended by striking out "$3,150,000,000" and inserting in lieu thereof "$2,975,000,000". 92 Stat. 2692.

(d) Apportionment Adjustments.—

(1) Determination of adjustment amount.—On the first day following the effective date of this section, the Secretary of Transportation shall determine— State and local governments.

(A) the amount of funds that would have been apportioned to each State on October 1, 1985—

(i) for the Federal-aid primary system program if the amendment made by subsection (a) had been in effect on such date;

(ii) for the highway bridge replacement and rehabilitation program if the amendment made by subsection (b) had been in effect on such date; and

(iii) for the program to resurface, restore, rehabilitate, and reconstruct routes on the National System of Interstate and Defense Highways if the amendment made by subsection (c) had been in effect on such date; and

(B) the amount by which the amount which was apportioned to such State on October 1, 1985, for such program exceeds the amount determined under subparagraph (A) for such program.

(2) Adjustments to current apportionment.—To the extent that any funds— State and local governments.

(A) which were apportioned to a State on October 1, 1985, for any program referred to in paragraph (1)(A); and

(B) which are unobligated on the first day following the effective date of this section;

do not exceed the amount determined under paragraph (1)(B) for such program, such apportioned and unobligated funds shall lapse on such first day.

State and local governments.

(3) Adjustment to future apportionment.—If the amount determined under paragraph (1)(B) with respect to the apportionment made on October 1, 1985, to any State for any program referred to in paragraph (1)(A) is greater than the amount of funds which lapse from the apportionment to such State for such program under paragraph (2), the Secretary of Transportation shall reduce the amount which, but for this paragraph, would otherwise be apportioned to such State for such program on October 1, 1986, by the amount of such excess.

SEC. 4102. OBLIGATION CEILING.

Safety.
23 USC 104 note.
100 STAT. 113

(a) General Limitation.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $13,125,000,000 for fiscal year 1986;
(2) $13,525,000,000 for fiscal year 1987; and
(3) $14,100,000,000 for fiscal year 1988.

23 USC 104 note.

(b) Exceptions.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;
(2) under section 157 of such title;
(3) under section 320 of such title;
(4) under section 147 of the Surface Transportation Assistance Act of 1978;

Post, p. 116.
95 Stat. 1701.

(5) under section 9 of the Federal-Aid Highway Act of 1981;

96 Stat. 2119.

(6) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982; and

40 USC 818.

(7) under section 118 of the National Visitor Center Facilities Act of 1968.

State and local governments.
23 USC 104 note.

(c) Distribution of Obligational Authority.—For each of the fiscal years 1986, 1987, and 1988, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

State and local governments.
23 USC 104 note.

(d) Limitation on Obligational Authority.—During the period October 1 through December 31 of each of the fiscal years 1986, 1987, and 1988, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

State and local governments.
23 USC 104 note.

(e) Redistribution of Unused Obligational Authority.—Notwithstanding subsections (c) and (d), the Secretary of Transportation shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of the fiscal years 1986, 1987, and 1988, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation

Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

23 USC 101 note.
23 USC 101 note.

(3) not distribute amounts authorized for administrative expenses and Federal lands highways programs.

(f) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "and section 4102(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

100 STAT. 114

SEC. 4103. INCREASE IN THE STATE EMERGENCY REPAIR FUND LIMITATION.

The first sentence of section 125(b) of title 23, United States Code, is amended by inserting after "$30,000,000" the following: "(and $55,000,000 for projects in connection with disasters or failures occurring in calendar year 1985)".

SEC. 4104. NATIONAL MINIMUM DRINKING AGE AMENDMENTS.

(a) EXTENSION OF PENALTY FOR NON-COMPLIANCE.—Section 158(a)(2) of title 23, United States Code, is amended by striking out "the fiscal year succeeding" and inserting in lieu thereof "each fiscal year after".

(b) COMPLYING STATE LAWS.—Subsection (a) of section 158 of such title is amended by adding at the end thereof the following new paragraph:

"(3) STATE GRANDFATHER LAW AS COMPLYING.—If, before the later of (A) October 1, 1986, or (B) the tenth day following the last day of the first session the legislature of a State convenes after the date of the enactment of this paragraph, such State has in effect a law which makes unlawful the purchase and public possession in such State of any alcoholic beverage by a person who is less than 21 years of age (other than any person who is 18 years of age or older on the day preceding the effective date of such law and at such time could lawfully purchase or publicly possess any alcoholic beverage in such State), such State shall be deemed to be in compliance with paragraphs (1) and (2) of this subsection in each fiscal year in which such law is in effect.".

(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NON-COMPLIANCE.—Subsection (b) of section 158 of such title is amended to read as follows:

23 USC 158.

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NON-COMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1988.—Any funds withheld under this section from apportionment to any State on or before September 30, 1988, shall remain available for apportionment to such State as follows:

State and local governments.

"(i) If such funds would have been apportioned under section 104(b)(5)(A) of this title but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) of this title but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under section 104(b)(1), 104(b)(2), or 104(b)(6) of this title but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal

100 STAT. 115

year for which such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1988.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to such State.

State and local governments.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under this section from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State makes effective a law which is in compliance with subsection (a), the Secretary shall on the day following the effective date of such law apportion to such State the withheld funds remaining available for apportionment to such State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds apportioned under section 104(b)(5)(A) of this title shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are so apportioned.

"(B) Funds apportioned under section 104(b)(1), 104(b)(2), 104(b)(5)(B), or 104(b)(6) of this title shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) of this title, shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.

State and local governments.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under this section from apportionment are available for apportionment to a State under paragraph (1), the State has not made effective a law which is in compliance with subsection (a), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) of this title, such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b) of this title.".

23 USC 158.

(d) CONFORMING AMENDMENTS.—Such section 158 is further amended—

(1) in subsection (a) by inserting "WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—" before "(1) The";

(2) in subsection (a)(1) by inserting "FIRST YEAR.—" before "The Secretary";

(3) by indenting paragraphs (1) and (2) of subsection (a) and aligning them with paragraph (3) of such subsection as inserted by subsection (b) of this section;

(4) in subsection (a)(1) by inserting "first" before "fiscal year" the second place it appears;

(5) in subsection (a)(2) by inserting "AFTER THE FIRST YEAR.—" before "The Secretary"; and

(6) in subsection (c) by inserting "ALCOHOLIC BEVERAGE DEFINED.—" before "As".

100 STAT. 116

SEC. 4105. OHIO RIVER BRIDGE FUND REPROGRAMMING.

23 USC 144 note.

Section 147 of the Federal-Aid Highway Act of 1978 is amended by inserting "(a)" after "SEC. 147." and by adding at the end thereof the following new subsection:

"(b)(1) Of the funds which have been set aside previously pursuant to the fourth and fifth sentences of subsection (a) of this section and which are in excess of the amounts needed to complete the projects authorized by such subsection—

"(A) $65,000,000 shall be available to the Secretary of Transportation to carry out the state-of-the-art technology projects described in paragraph (2) of this subsection; and

"(B) the remainder shall be apportioned under subsection (e) of section 144 of title 23, United States Code, for carrying out projects under such section.

"(2) The state-of-the-art technology projects referred to in paragraph (1) of this subsection are the following:

"(A) Construction of a bridge (including approaches thereto) across the Ohio River between Newport, Kentucky, and Cincinnati, Ohio, to replace a bridge on a highway designated as a United States route.

Highways. Kentucky. Ohio.

"(B) Construction of a bridge (including approaches thereto) across the Ohio River between Covington, Kentucky, and Cincinnati, Ohio, to replace a bridge on a Kentucky State highway.

"(C) Construction of a bridge (including approaches thereto) across the Ohio River near Maysville, Kentucky, and Aberdeen, Ohio, to replace a bridge on a highway designated as a United States route.

"(3) In order to demonstrate the latest high-type geometric design features (including safety hardware) and new advances in highway bridge construction, the projects authorized by this subsection shall utilize state-of-the-art technology, and all design elements, including the decking, shall be designed to provide the best life-cycle costs, thereby minimizing future maintenance and rehabilitation costs.

Safety. Science and technology.

"(4) The Secretary of Transportation may provide necessary technical assistance in the design and construction of projects under this subsection.

"(5) Not later than one year after the completion of the state-of-the-art technology projects under this subsection, the Secretary of Transportation shall submit a report to Congress, including but not limited to the results of such projects, the effects of using the best available technology on safety and other considerations, recommendations for applying the results to other bridge projects, and any changes that may be necessary by law to permit further use of such features.

Report.

"(6) In allocating funds made available to carry out the projects described in paragraph (2) of this subsection, the Secretary shall give priority to completing the projects described in subparagraphs (A) and (B) of such paragraph. At such time as the Secretary determines and certifies in writing that sufficient funds have been set aside, from the amount made available under paragraph (1)(A), to complete the projects described in subparagraphs (A) and (B) of paragraph (2), any remaining funds shall be used to carry out the project described in subparagraph (C) of paragraph (2).

"(7) Funds made available to carry out the projects described in paragraph (2) of this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall be available until expended and shall not be subject to any obligation limitation. The Federal share of the projects described in paragraph (2) of this subsection shall be that provided in subsection (a).".

100 STAT. 117

23 USC 101 *et seq.*

TITLE V—CORPORATION FOR PUBLIC BROADCASTING AND FEDERAL COMMUNICATIONS COMMISSION

SEC. 5001. CORPORATION FOR PUBLIC BROADCASTING.

(a) Public Telecommunications Facilities.—Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking out "and" after "1983,"; and

(2) by inserting ", $24,000,000 for fiscal year 1986, $28,000,000 for fiscal year 1987, and $32,000,000 for fiscal year 1988," immediately after "1984,".

(b) Allocation of Appropriations.—Section 393 of the Communications Act of 1934 (47 U.S.C. 393) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) Financing of Corporation for Public Broadcasting.—(1) Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(A) by striking out "and 1986" and inserting in lieu thereof "1986, 1987, 1988, 1989, and 1990";

(B) by striking out "and" after "fiscal year 1985,"; and

(C) by inserting ", $200,000,000 for fiscal year 1987, $214,000,000 for fiscal year 1988, $238,000,000 for fiscal year 1989, and $254,000,000 for fiscal year 1990" immediately before the period at the end thereof.

(2) Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by striking out "research, training, technical assistance, engineering, instructional support, payment of interest on indebtedness,".

(3) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

SEC. 5002. FEDERAL COMMUNICATIONS COMMISSION.

(a) Authorization of Appropriations.—(1) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 6. There are authorized to be appropriated for the administration of this Act by the Commission $98,100,000 for fiscal year 1986 and $97,600,000 for fiscal year 1987, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1986 and 1987." 100 STAT. 118

47 USC 156 note. (2) The amendment made by paragraph (1) of this subsection shall apply with respect to fiscal years beginning after September 30, 1985.

(b) Reimbursed Expenses.—Section 4(g)(2) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)) is amended—

(1) in subparagraph (D), by striking out "1985" and inserting in lieu thereof "1987"; and

(2) by adding at the end thereof the following new subparagraph:

"(E) Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.".

(c) Annual Report.—Section 5(g) of the Communications Act of 1934 (47 U.S.C. 155(g)) is amended by striking out "January 31" and inserting in lieu thereof "March 31".

(d) Additional Savings.—For provisions of law which, through relocation of the Fort Lauderdale, Florida, Monitoring Station of the Federal Communications Commission, reduce spending for fiscal year 1986 in satisfaction of the reconciliation requirements imposed by section 2(e) of S. Con. Res. 32 (99th Congress), see the material under the heading "Federal Communications Commission" in the
99 Stat. 293. Supplemental Appropriations Act, 1985 (Public Law 99-88).

(e) Charges for Operations.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by inserting immediately after section 7 the following new section:

“CHARGES

47 USC 158.

“SEC. 8. (a) The Commission shall assess and collect charges at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section. The Schedule of Charges established under this subsection shall be implemented not later than 360 days after the date of enactment of this section.

“(b)(1) The Schedule of Charges established under this section shall be reviewed by the Commission every two years after the date of enactment of this section and adjusted by the Commission to reflect changes in the Consumer Price Index. Increases or decreases in charges shall apply to all categories of charges, except that individual fees shall not be adjusted until the increase or decrease, as determined by the net change in the Consumer Price Index since the date of enactment of this section, amounts to at least $5.00 in the case of fees under $100.00, or 5 percent in the case of fees of $100.00 or more. All fees which require adjustment will be rounded upward to the next $5.00 increment. The Commission shall transmit to the Congress notification of any such adjustment not later than 90 days before the effective date of such adjustment.

Notice.

“(2) Increases or decreases in charges made pursuant to this subsection shall not be subject to judicial review.

Regulations.

“(c)(1) The Commission shall prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of charges required by subsection (a) of this section. Such penalty shall be 25 percent of the amount of the charge which was not paid in a timely manner.

“(2) The Commission may dismiss any application or other filing for failure to pay in a timely manner any charge or penalty under this section.

100 STAT. 119

Prohibitions.

“(d)(1) The charges established under this section shall not be applicable to the following radio services: Local Government, Police, Fire, Highway Maintenance, Forestry-Conservation, Public Safety, and Special Emergency Radio, or to governmental entities licensed in other services.

“(2) The Commission may waive or defer payment of a charge in any specific instance for good cause shown, where such action would promote the public interest.

“(e) Moneys received from charges established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this Act.

Regulations.

“(f) The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section.”.

47 USC 158 note.

(f) Until modified pursuant to section 8(b) of the Communications Act of 1934 (as added by subsection (e) of this section), the Schedule of Charges which the Federal Communications Commission shall prescribe pursuant to section 8(a) of such Act shall be as follows:

Schedule of Charges

	Service	Fee amount
	PRIVATE RADIO BUREAU	
1.	Marine Coast Stations (New, Modifications, Renewals)	$60.00
2.	Operational Fixed Microwave Stations (New, Modifications, Renewals)	135.00
3.	Aviation (Ground Stations) (New, Modifications, Renewals)	60.00
4.	Land Mobile Radio Licenses (New, Modifications, Renewals)	30.00
	EQUIPMENT APPROVAL SERVICE	
1.	Certification	
	a. Receivers (Except TV & FM Receivers)	250.00
	b. All Other Devices	650.00
2.	Type Acceptance	
	a. Approval of Subscription TV Systems	2,000.00
	b. All Others	325.00

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Schedule of Charges—Continued

Service	Fee amount
3. Type Approval	
a. Ship (Radio Telegraph) Automatic Alarm Systems	6,500.00
b. Ship and Lifeboat (Radio Telegraph) Transmitters	3,250.00
c. All Others (With Testing)	1,300.00
d. All Others (Without Testing)	150.00
4. Notifications	100.00
MASS MEDIA BUREAU	
1. Commercial TV Stations	
a. New and Major Change Construction Permits Application Fees	2,250.00
b. Minor Changes Application Fee	500.00
c. Hearing Charge	6,000.00
d. License Fee	150.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permits	
(1) Application Fee AM Station	2,000.00
(2) Application Fee FM Station	1,800.00
b. Minor Changes Appl. Fee-AM & FM	500.00
c. Hearing Charge	6,000.00
d. License Fee	
(1) AM	325.00
(2) FM	100.00
e. Directional Antenna License Fee (AM only)	375.00
3. FM/TV Translators and LPTV Stations (New & Major Change Construction Permits)	
a. Application Fee	375.00
b. License Fee	75.00
4. Station Assignment and Transfer Fees	
a. AM, FM and TV Commercial Stations	
(1) Application Fee (Forms 314/315)	500.00
(2) Application Fee (Form 316)	70.00
b. FM/TV Translators & LPTV Stations	75.00
5. Auxiliary Services Major Actions—Application Fee	75.00
6. Renewals—All Services	30.00
7. Cable Television Service	
a. Cable Television Relay Service—Construction Permits, Assignments & Transfers, Renewals & Modifications	135.00
b. Cable Special Relief Petitions—Filing Fee	700.00
8. Direct Broadcast Satellite New & Major Change CPs	
a. Application for Authorization to Construct a Direct Broadcast Satellite	1,800.00
b. Issuance of CP & Launch Authority	17,500.00
c. License to Operate Satellite	500.00
d. Hearing Charge	6,000.00
COMMON CARRIER BUREAU	
1. Domestic Public Land Mobile Stations (Base, Dispatch, Control & Repeater Stations)	
a. New or Additional Facility Authorizations, Assignments & Transfers (Per transmitter/per station)	200.00
b. Renewals and Minor Modifications (Per station)	20.00
c. Air-Ground Individual License Renewals & Modifications	20.00
2. Cellular Systems	
a. Initial Construction Permits & Major Modification Applications (Per cellular systems)	200.00
b. Assignments & Transfers (Per station)	200.00
c. Initial covering license (Per cellular system)	
(1) Wireline carrier	525.00
(2) Nonwireline carrier	50.00
d. Renewals	20.00
e. Minor modifications and additional licenses	50.00
3. Rural Radio (Central Office, Interoffice or Relay Facilities)	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter)	90.00
b. Renewals & Modifications (Per station)	20.00
4. Offshore Radio Service	
a. Initial Construction Permit, Assignments & Transfers (Per transmitter)	90.00
b. Renewals & Modifications (Per station)	20.00
5. Local Television or Point To Point Microwave Radio Service	
a. Construction Permits, Modifications of Construction Permits, and Renewals of Licenses	135.00
b. Assignments & Transfers of Control (Per Station)	45.00
c. Initial License for New Frequency	135.00
6. International Fixed Public Radio (Public & Control Stations)	
a. Initial Construction Permits, Assignments & Transfers	450.00
b. Renewals & Modifications	325.00

Schedule of Charges—Continued

Service	Fee amount
7. Satellite Services	
a. Transmit Earth Stations	
(1) Initial Station Authorization	1,350.00
(2) Assignments & Transfers of Station Authorizations	450.00
(3) All Other Applications	90.00
b. Small Transmit/Receive Earth Stations (2 meters or less)	
(1) Lead Authorization	3,000.00
(2) Routine Authorization	30.00
(3) All Other Applications	90.00
c. Receive Only Earth Stations	
(1) Initial Station Authorization	200.00
(2) All Other Applications	90.00
d. Applications For Authority To Construct a Space Station	1,800.00
e. Applications For Authority To Launch & Operate a Space Station	18,000.00
f. Satellite System Application	
(1) Initial Station Authorization	5,000.00
(2) Assignments & Transfers of Systems	1,333.00
(3) All Other Applications	90.00
8. Multipoint Distribution Service	
a. Construction Permits, Renewals & Modifications of Construction Permits	135.00
b. Assignments & Transfers of Control (Per station)	45.00
c. Initial License (Per channel)	400.00
9. Section 214 Applications	
a. Applications for Overseas Cable Construction	8,100.00
b. Applications for Domestic Cable Construction	540.00
c. All Other 214 Applications	540.00
10. Tariff Filings	
a. Filing Fee	250.00
b. Special Permission Filings	200.00
11. Telephone Equipment Registration	135.00
12. Digital Electronic Message Service	
a. Construction Permits, Renewals & Modifications of Construction Permits	135.00
b. Assignments & Transfers of Control (Per station)	45.00
c. Initial License (First License or License Adding a New Frequency)	135.00

100 STAT. 121

TITLE VI—MARITIME, COASTAL ZONE, AND RELATED PROGRAMS

Subtitle A—Boating Safety Fund

SEC. 6001. BOATING SAFETY FUND.

46 USC 13106 note.

An amount equal to one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Section 13106(a) of title 46, United States Code, shall be applied with respect to fiscal year 1985 by substituting "one-third" for "two-thirds" in the first sentence.

Subtitle B—NOAA Nautical and Aeronautical Products

SEC. 6011. SALE AND DISTRIBUTION OF NOAA NAUTICAL AND AERONAUTICAL PRODUCTS.

(a) Section 1307 of title 44, United States Code, is amended to read as follows:

"§ 1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution

"(a)(1) All nautical and aeronautical products created or published by the National Oceanic and Atmospheric Administration shall be sold at such prices as the Secretary of Commerce shall establish annually, in accordance with the provisions of this subsection. The Secretary shall publish annually the prices at which nautical and aeronautical products are sold to the public.

100 STAT. 122

"(2)(A) Subject to subparagraph (B) of this paragraph, the prices of nautical and aeronautical products may be increased over a period of not less than three years after the date of enactment of this section so as to recover all costs attributable to data base management, compilation, printing, and distribution of such products. The prices of such products may be maintained to recover all such costs thereafter. At the end of such period and every three years thereafter, the Secretary, after consultation with the Secretary of Transportation, shall report to the Congress on the effect of imposing or maintaining such increased prices, including any impact on aviation and marine safety.

"(B) The Secretary, after consultation with the Secretary of Transportation, shall adjust the prices of nautical or aeronautical products in such manner as is necessary to avoid any adverse impact on aviation and marine safety attributable to the prices specified in subparagraph (A) of this paragraph.

"(3) This section shall not be construed to require the establishment of any price for a nautical or aeronautical product where, in the judgment of the Secretary, furnishing of that product to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to a program of the National Oceanic and Atmospheric Administration.

"(4) Prices established under this section may not include costs attributable to the acquisition or processing of nautical or aeronautical data.

"(b) Fees collected from the sale of nautical or aeronautical products under this section and from any licensing of such products which is permitted under any other provision of law shall be deposited in the miscellaneous receipts fund of the United States Treasury.

International organizations.

"(c) The Secretary may distribute nautical and aeronautical products—

"(1) without charge to each foreign government or international organization with which the Secretary or a Federal department or agency has an agreement for exchange of these products without cost; and

"(2) at prices which the Secretary establishes, to the departments and officers of the United States requiring them for official use.

"(d) The fees provided for in this section are for the purpose of reimbursing the United States Government for the costs of creating, publishing or distributing aeronautical and nautical products of the National Oceanic and Atmospheric Administration. The collection of fees authorized by this section shall not alter or expand any duty or liability of the United States under existing law for the performance of functions for which fees are collected, nor shall the collection of fees constitute an express or implied undertaking by the United States to perform any activity in a certain manner.

"(e) For purposes of this section, the term 'nautical and aeronautical products' includes all nautical and aeronautical charts, tide and tidal current tables, tidal current charts, coast pilots, water level products, and associated data bases which are created or published by the National Oceanic and Atmospheric Administration.".

44 USC 1301 et seq.

(b) The item relating to section 1307 in the analysis of chapter 13 of title 44, United States Code, is amended to read as follows:

"1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution.".

Subtitle C—Foreign Fishing Permit Fees

100 STAT. 123

SEC. 6021. FOREIGN FISHING PERMIT FEES.

Paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) **Fees.**—(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation.

Vessels.

"(B) Unless subparagraph (C) applies, the fees imposed under subparagraph (A) shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year.

"(C) If the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e)—

Conservation

"(i) is harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or

"(ii) is failing to take sufficient action to benefit the conservation and development of United States fisheries;

the fees imposed under subparagraph (A) for the next fiscal year shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during such preceding year. If the Secretary, in consultation with the Secretary of State, finds, at any time during a fiscal year in which fees calculated under this subparagraph are in effect with respect to a foreign nation, that the conditions requiring that calculation no longer exist, the fees imposed under this paragraph with respect to that nation for the remainder of the fiscal year shall be calculated under subparagraph (B).

"(D) Before the end of each fiscal year, the Secretary, in consultation with the Secretary of State, shall review, based on the criteria established in subparagraph (C) (i) and (ii), the performance of every nation receiving an allocation under section 201(e) and provide written notice to the Congress of his findings and reasons therefor before the end of the fiscal year.

Notice.

"(E) For purposes of this paragraph, the total cost of carrying out the provisions of this Act includes, but is not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excludes costs for observers covered by surcharges under section 201(i)(4).

Conservation.

100 STAT. 124

"(F)(i) The amounts collected by the Secretary under this paragraph (except the amounts referred to in clause (ii)) shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.

"(ii) The Secretary shall deposit into the general fund of the United States Treasury the difference between the amounts collected under subparagraph (C) and the amounts that would have been collected had that subparagraph not been enacted.".

Coastal Zone Management Reauthorization Act of 1985.

Subtitle D—Amendments to the Coastal Zone Management Act

16 USC 1451 note.

SEC. 6041. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Management Reauthorization Act of 1985".

SEC. 6042. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment, or repeal, of a section, subsection, paragraph, or other provision, the reference is to be considered to be made to a section, subsection, paragraph, or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) unless otherwise specified.

SEC. 6043. REDUCTION OF ADMINISTRATIVE GRANTS.

(a) Section 312(c) (16 U.S.C. 1458(c)) is amended by striking "if the Secretary determines" and all that follows thereafter and inserting in lieu thereof the following: "if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I); or

16 USC 1452.

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i) (A) and (B).".

(b)(1) Subsection (a) of section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by striking out "The Secretary may" and all that follows through "if the Secretary—" and substituting in lieu thereof the following: "The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—".

State and local government.

16 USC 1455a.

(2) Section 306A is amended by striking section (d)(1) and substituting in lieu thereof the following:

State and local government.

"(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.".

100 STAT. 125

(c) Section 306(g) (16 U.S.C. 1455) is amended by striking out the period at the end of the first sentence and all that follows thereafter and inserting in lieu thereof the following: ", and subject to the following conditions:

State and local government.

"(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendment, modification or other program change.

Notice.

"(2) Within 30 days from the date on which the Secretary receives any proposed amendment, the Secretary shall notify the state whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days from the date the Secretary received the proposed amendment. The Secretary may extend this 120-day period only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"(3) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after the proposed amendment has been approved by the Secretary.".

Prohibition.

SEC. 6044. NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM.

Section 315 (16 U.S.C. 1461) is amended to read as follows:

"NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

"SEC. 315. (a) **ESTABLISHMENT OF THE SYSTEM.**—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

Ante, p. 124.

"(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

"(b) **DESIGNATION OF NATIONAL ESTUARINE RESERVES.**—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

State and local government.
Research and development.

"(1) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(2) the Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

"(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

100 STAT. 126

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

"(c) **ESTUARINE RESEARCH GUIDELINES.**—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

"(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

"(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

"(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

"(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

"(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the

System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

State and local government.

"(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

Grants. Education. State and local governments.

"(e) FINANCIAL ASSISTANCE.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

"(A) to a coastal State—

"(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

"(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

"(iii) for purposes of conducting educational or interpretive activities; and

"(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

State and local governments.

"(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

"(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraph (1)(A) (ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

Education. Research and development.

"(f) EVALUATION OF SYSTEM PERFORMANCE.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

"(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

Research and development.

"(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

"(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(g) Report.—The Secretary shall include in the report required under section 316 information regarding— 16 USC 1462.

"(1) new designations of national estuarine reserves;

"(2) any expansion of existing national estuarine reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (f).".

SEC. 6045. REPEALS.

The following are repealed:

(1) Section 310 (16 U.S.C. 1456c; relating to research and technical assistance programs and grants).

(2) Section 314 (16 U.S.C. 1460; establishing the Coastal Zone Management Advisory Committee).

(3) Subsection (c) of section 15 of the Coastal Zone Management Act Amendments of 1976, Public Law 94-370 (16 U.S.C. 1451 note; relating to certain additional personnel positions).

SEC. 6046. AUTHORIZATIONS OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by amending paragraph (1) to read as follows: 100 STAT. 128

"(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,000 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended;"; *Ante*, pp. 124, 125.

(2) by striking paragraph (2) and renumbering the succeeding paragraphs; and

(3) by amending paragraphs (3), (4), and (5) (as renumbered by paragraph (2) of this section) to read as follows:

"(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended; 16 USC 1456b.

"(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986, not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended; and *Ante*, p. 125.

"(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this title.".

SEC. 6047. TECHNICAL AMENDMENT.

Section 308(h) (16 U.S.C. 1456a(h)) is amended by deleting "subsections (c)(1)" each place it appears and inserting instead "subsections (c)".

Subpart E—National Oceanic and Atmospheric Administration

SEC. 6051. AUTHORIZATION OF APPROPRIATIONS.

(a) For purposes of this section—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Department" means the Department of Commerce.

(b) There are authorized to be appropriated to the Department to enable the Administration to carry out its executive direction and administration functions and duties under law, $47,667,000 for fiscal year 1986 and $49,812,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to executive direction and administration authorized by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving such functions and duties. Such functions and duties include management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development. 100 STAT. 129

(c) There are authorized to be appropriated to the Department to enable the Administration to carry out its marine services functions and duties under law, $61,791,000 for fiscal year 1986 and $64,572,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to marine services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include ship operations, maintenance, and support.

(d) There are authorized to be appropriated to the Department to enable the Administration to carry out its aircraft services functions and duties under law, $14,779,000 for fiscal year 1986 and $15,440,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to aircraft services authorized by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving such functions and duties. Such functions and duties include aircraft operations, maintenance, and support.

(e) For the purpose of enabling the Administration to carry out its functions and duties under the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-13 et seq.), there are authorized to be appropriated to the Department $500,000 for fiscal year 1986.

(f)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its nonliving marine resource functions and duties under law, $1,800,000 for fiscal year 1986 and $1,881,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to nonliving marine resources authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include research, development, and licensing responsibilities pertaining to ocean thermal energy conversion and the deep seabed mining of manganese nodules, and polymetallic sulfide analyses and research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 et seq.), and the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), for the purpose of carrying out such functions and duties relating to nonliving marine resources.

(g)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean research functions and duties under law, $33,884,000 for fiscal year 1986 and $35,409,000 for fiscal year 1987. Moneys appropriated pursuant to 100 STAT. 130 this authorization shall be used to fund those functions and duties relating to ocean research authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to ocean research moneys authorized under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) for the purpose of carrying out such functions and duties relating to ocean research.

(h)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean service functions and duties under law, $17,181,000 for fiscal year 1986 and $17,954,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include coordination of interagency research in ocean dumping and marine pollution, and provision of tide and current data for the safe and efficient use of the oceans and Great Lakes by government, commerce, and the private sector.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), for the purpose of carrying out such functions and duties relating to ocean services.

(i) There are authorized to be appropriated to the Department to enable the Administration to carry out its mapping, charting, and geodesy functions and duties under law, $47,943,000 for fiscal year 1986 and $50,100,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to mapping, charting, and geodesy authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include aeronautical and nautical mapping and charting activities, and geodetic data collection and analysis.

(j) There are authorized to be appropriated to the Department to enable the Administration to carry out its programs at current levels such sums as may be necessary to accommodate salary, pay, and other employee benefits authorized by law for fiscal years 1986 and 1987.

100 STAT. 131

Subtitle F—Marine Protection, Research, and Sanctuaries Act Amendments

SEC. 6061. CONSOLIDATION OF REPORT.

Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 6062. MARINE RESEARCH REQUIREMENTS.

Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

Pollution.

33 USC 1411.
Infra.

"(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to title I and section 203. That program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the capacity of the marine environment to receive materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 6063. REGIONAL MANAGEMENT PLANS.

Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

State and local governments.
Waste disposal.

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

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"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws and regulations governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

"(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President, not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York City metropolitan region. The report shall— Report. New York.

"(1) consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

"(2) include an assessment of the cost of these alternatives; and

"(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 6064. AUTHORIZATION OF APPROPRIATIONS.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981" and by striking out "1982." and inserting in lieu thereof the following: "1982, not to exceed $10,635,000 for fiscal year 1986, and not to exceed $11,114,000 for fiscal year 1987.". 33 USC 1445.

SEC. 6065. CONSOLIDATION OF REPORTS.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"ANNUAL REPORT

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include— 33 USC 1444.

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping; *Ante*, p. 131.

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and 33 USC 1411. 33 USC 1441.

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203.". *Ante*, p. 131.

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Subtitle G—National Ocean Pollution Planning Act Amendments

SEC. 6071. FINDINGS AND PURPOSES.

Research and development. Conservation.

(a) Section 2(a) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by adding at the end thereof the following new paragraphs:

"(6) Numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance.

"(7) Various research projects relating to the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, including those conducted at the college and university level and those conducted at the State and local governmental level, can be more effectively coordinated in order to obtain maximum benefits.".

(b) Section 2(b) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) to provide for the effective coordination of research conducted to support the preservation and protection of the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, and to encourage the use of such research in determinations that affect the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance; and".

SEC. 6072. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) is further amended as follows:

33 USC 1702. (1) Section 3 is amended—

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'Board' means the National Ocean Pollution Policy Board established under section 3A(b)."; and Infra.

(C) by adding at the end thereof the following new paragraph:

"(8) The term 'Office' means the National Ocean Pollution Program Office established under section 3A(a).".

(2) The following new section is inserted immediately after section 3:

33 USC 1702a. "SEC. 3A. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

"(a) PROGRAM OFFICE.—(1) The Administrator shall establish within the Administration the National Ocean Pollution Program Office.

100 STAT. 134 "(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program established under section 4; 33 USC 1703.

"(B) be headed by a director who shall—

"(i) be appointed by the Administrator,

"(ii) serve as the Chair of the Board, and

"(iii) be the spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups; and

"(D) review each department and agency budget request transmitted under section 4(d) and submit an analysis of the requests to the Board for its review.

The analysis described in subparagraph (D) shall include an analysis of how each departmental or agency budget request relates to the priorities and goals of the Plan established under section 4.

"(b) POLICY BOARD.—(1) The Administrator, with the cooperation of the Federal departments and agencies referred to in section 7, 33 USC 1706. shall establish a National Ocean Pollution Policy Board consisting of representatives of those departments and agencies.

Report. "(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program established under section 4;

"(B) review all department and agency budget requests transmitted to it under section 4(d) and submit a report to the Office of Management and Budget and to the Congress concerning those budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of ocean pollution data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such consultations.".

SEC. 6073. FEDERAL PLANNING TO INCLUDE GREAT LAKES.

Section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703) is amended—

(1) by inserting after "general research on marine ecosystems" in subsection (b)(2)(A) the following: ", including the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance,";

(2) in subsection (b)(4)—

(A) by striking out "Budget Review.—" and inserting in lieu thereof "Plan Review.—"; and

(B) by striking out "to coordinate the budget review process"; and

(3) by adding at the end thereof the following new subsection:

"(d) Budgeting.—Each Federal agency and department included under the Plan shall prepare and submit to the Office of Management and Budget, the Office, and the Board on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations to carry out the activities of that agency or department under the Plan during the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, and multiagency request, taking into account the review by the Board of those requests under section 3A(b).". *Ante*, p. 133

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SEC. 6074. DISSEMINATION OF INFORMATION ON GREAT LAKES.

Section 8 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1707) is amended by adding "(a)" after "Sec. 8." and by adding at the end thereof the following new subsection:

"(b) The Administrator shall ensure that the findings and information regarding ocean pollution research activities associated with the Great Lakes identified pursuant to section 4(b) be disseminated in a timely manner and in useful forms to relevant departments of the Federal Government, State governments, and other persons with an interest in such information.". 33 USC 1703.

SEC. 6075. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1709), is amended by striking out "and" after "1981," and by striking out "1982." and inserting in lieu thereof "1982, and not to exceed $3,571,000 for fiscal year 1986, and not to exceed $3,732,000 for fiscal year 1987.".

Subtitle H—Weather Modification

SEC. 6081. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 15 U.S.C. 330e), is amended—

(1) by striking "and"; and

(2) by inserting immediately after "1981," the following: "$100,000 for the fiscal year ending September 30, 1986, $100,000 for the fiscal year ending September 30, 1987, $100,000 for the fiscal year ending September 30, 1988,".

33 USC 883j.

SEC. 6082. OCEAN SATELLITE DATA.

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

15 USC 1530.

SEC. 6083. AWARDING OF CONTRACTS.

Prohibition.
Congress.

The Administration may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of the Office of Management and Budget Circular Memorandum A-76, which is performed by Administration employees until at least 30 calendar days after the Administrator of the Administration has presented, in writing, to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology of the House of Representatives, a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include—

(1) a comparison of the cost of such activity as performed by employees of the Administration and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Administration and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Federal Government of proceeding with the proposed contract.

SEC. 6084. NATIONAL CLIMATE PROGRAM.

(a) Section 4 of the National Climate Program Act (15 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

(b) Section 5(c) of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by designating the third sentence as paragraph (4); and

(3) by striking the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program;

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups;

"(D) review each agency budget request transmitted under subsection (g)(1) and submit an analysis of the requests to the Board for its review;

"(E) be responsible for coordinating interagency participation in international climate-related activities; and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the 5-year plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

Contracts. Grants.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grants or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the 5-year plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(c) Section 5(d) of the National Climate Program Act (15 U.S.C. 2904(d)) is amended—

State and local governments.

(1) by striking the semicolon at the end of paragraph (7) and inserting in lieu thereof the following: ". Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy; (B) atmospheric data collection and monitoring on a statewide and regional basis; (C) advice to regional, State, and local government agencies regarding climate-related issues; (D) information to users within the State regarding climate and climatic effects; and (E) information to the Secretary regarding the needs of persons within the States for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, which grants shall be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;";

Grants. State and local governments.

(2) by striking "biennially" in paragraph (9) and inserting in lieu thereof "at least once every four years"; and

(3) by striking "under section 6" in paragraph (9) and inserting in lieu thereof "described in paragraph (7)".

(d) Section 5(e) of the National Climate Program Act (15 U.S.C. 2904(e)) is amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary determines should participate in the Program.

Report.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the Program;

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(e) Section 5(f)(2) of the National Climate Program Act (15 U.S.C. 2904(f)(2)) is amended by inserting "with the Office" immediately after "cooperate".

(f) The first sentence of section 5(g)(1) of the National Climate Program Act (15 U.S.C. 2904(g)(1)) is amended by inserting immediately before the period the following: "and shall transmit a copy of such request to the National Climate Program Office".

Repeal.

(g) Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

(h) There are authorized to be appropriated to the Administration, for purposes of carrying out the provisions of the amendments made by this section, $1,897,000 for fiscal year 1986 and $1,982,000 for fiscal year 1987. Of such funds, at least 25 percent shall be made available for intergovernmental climate-related activities described in section 5(d)(7) of the National Climate Program Act (15 U.S.C. 2904(d)(7)), and at least 20 percent shall be made available during each fiscal year for experimental climate forecast centers described in section 5(d)(8) of the National Climate Program Act (15 U.S.C. 2904(d)(8)).

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SEC. 6085. COOPERATIVE AGREEMENTS FOR MAPPING AND CHARTING SURVEYS.

Section 5 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (61 Stat. 788, 33 U.S.C. 883e) is amended—

(1) by inserting "(1)" after "Sec. 5.";

(2) by inserting "any Federal agency," after "or subdivision thereof,"; and

(3) by adding at the end thereof the following:

"(2) The Secretary of Commerce is authorized to establish the terms of any cooperative agreement entered into under this section, including the amount of funds to be received, and may contribute that portion of the costs incurred by the National Oceanic and Atmospheric Administration, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the cooperative agreement.".

Subtitle I—Maritime Authorizations

SEC. 6091. MARITIME PROGRAMS.

(a) Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1986 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed $335,084,000;

(2) for expenses necessary for research and development activities, not to exceed $9,900,000; and

(3) for expenses necessary for operations and training activities, not to exceed $71,967,000, including not to exceed—

(A) $34,847,000 for maritime education and training expenses, including not to exceed $19,633,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,915,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,299,000 for expenses necessary for additional training;

(B) $9,277,000 for national security support capabilities, including not to exceed $7,932,000 for reserve fleet expenses, and $1,345,000 for emergency planning/operations; and

(C) $27,843,000 for other operations and training expenses.

(b) Funds are authorized to be appropriated for the use of the Federal Maritime Commission, in the amount of $11,940,000 for fiscal year 1986.

TITLE VII—ENERGY AND RELATED PROGRAMS

Subtitle A—Pipeline Programs

SEC. 7001. NATURAL GAS PIPELINE SAFETY AUTHORIZATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $3,450,000 for the fiscal year ending September 30, 1986.".

SEC. 7002. AUTHORIZATIONS FOR FEDERAL GRANTS-IN-AID.

(a) Combined Program.—Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsections:

"(c) For the purpose of carrying out the Federal grants-in-aid provisions of section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1986.

Infra.

"(d) Not less than 5 percent of any amounts appropriated for carrying out the Federal grants-in-aid provisions for any fiscal year beginning after September 30, 1985, shall be available only for carrying out the Federal grants-in-aid provisions of section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).".

(b) Conforming Amendments.—

(1) Section 5(d)(2) of such Act (49 U.S.C. App. 1674(d)(2)) is amended—

(A) by striking out "authorized to be appropriated by section 17(b) of this Act" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection"; and

(B) by striking out "(1) of this section" and inserting in lieu thereof "(1) of this subsection".

(2) Section 205(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)(2)) is amended by striking out "authorized to be appropriated by section 214 of this title" and inserting in lieu thereof "appropriated for carrying out the Federal grants-in-aid provisions of this subsection".

(3) Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended by inserting after "subsection (b)" the following: "or section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c))".

(4) Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended by inserting after "subsection (b)" the following: "or (c)".

SEC. 7003. REPORTS.

(a) Grants Merger Report.—

(1) Merger recommendations.—The Secretary of Transportation shall prepare a report which shall contain details of the Secretary's recommendations with respect to the potential merger and joint administration of the Federal grants-in-aid provisions of section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

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Ante, p. 139.

Ante, p. 139.

(2) Consultation.—In preparing the report required by paragraph (1), the Secretary shall consult with appropriate State

State and local governments.

authorities. The Secretary shall include in such report a summary of the views and recommendations of such State authorities.

(b) GRANTS ALLOCATION REPORT.—

State and local governments.

(1) CONTENTS.—The Secretary of Transportation shall prepare a report which shall contain an explanation of the method by which the Secretary allocates funds to the States under section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C App. 1674(d)) and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

Federal Register, publication.

(2) PUBLICATION.—The Secretary shall publish in the Federal Register, as a matter of public information, the explanation contained in the report required by paragraph (1).

(c) REPORT DEADLINE.—The reports required by subsections (a)(1) and (b)(1) shall be submitted to Congress no later than July 1, 1986.

SEC. 7004. HAZARDOUS LIQUID PIPELINE SAFETY AUTHORIZATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $875,000 for the fiscal year ending September 30, 1986.".

49 USC app. 1682a.

SEC. 7005. PIPELINE SAFETY USER FEES.

(a) ESTABLISHMENT.—

(1) SCHEDULE.—The Secretary of Transportation (hereafter in this section referred to as the "Secretary") shall establish a schedule of fees based on the usage, in reasonable relationship to volume-miles, miles, revenues, or an appropriate combination thereof, of natural gas and hazardous liquid pipelines. In establishing such schedule, the Secretary shall take into consideration the allocation of departmental resources.

State and local governments.

(2) COLLECTION.—The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

(3) LIABILITY.—Fees established under this section shall be assessed to the persons operating—

(A) all pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.); and

(B) all pipeline transmission facilities and all liquefied natural gas facilities subject to the jurisdiction of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.).

(b) TIME OF ASSESSMENT.—The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

100 STAT. 141

(c) USE OF FUNDS.—Funds received under subsection (a) shall be used, to the extent provided for in advance in appropriation Acts, only—

(1) in the case of natural gas pipeline safety fees, for activities authorized under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.); and

(2) in the case of hazardous liquid pipeline safety fees, for activities authorized under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.).

(d) FEE SCHEDULE.—Fees established by the Secretary under subsection (a) shall be assessed against all natural gas and hazardous liquids transported by pipelines subject to the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 after September 30, 1985, and shall be sufficient to meet the costs of activities described in subsection (c), beginning on October 1, 1985, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

Subtitle B—Strategic Petroleum Reserve

SEC. 7101. AUTHORIZATIONS OF APPROPRIATIONS FOR FISCAL YEARS 1986, 1987, AND 1988.

Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Strategic Petroleum Reserve— 42 USC 7270.

(1) to carry out part B of title I of the Energy Policy and Conservation Act (including any drawdown and distribution of the Reserve), except acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve— 42 USC 6231.

(A) for fiscal year 1986, $135,912,000;
(B) for fiscal year 1987, $358,996,000; and
(C) for fiscal year 1988, $156,692,000; and

(2) to carry out part B of title I of the Energy Policy and Conservation Act for the acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve and for any drawdown and distribution of the Reserve—

(A) for fiscal year 1986, $357,548,000;
(B) for fiscal year 1987, $333,695,000; and
(C) for fiscal year 1988, $357,000,000.

SEC. 7102. FILL-RATE OF THE RESERVE; LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.

(a) FILL-RATE OF THE RESERVE.—Section 160(c) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended by adding the following new paragraph at the end:

"(3) Notwithstanding paragraph (2), beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, the President shall carry out petroleum acquisition, transportation, and injection activities at a level sufficient to assure a minimum average annual fill-rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.". President of U.S.

(b) LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.—Section 160(d)(1) of such Act (42 U.S.C. 6240(d)(1)) is amended—

(1) by striking out "500,000,000 barrels" in subparagraph (A) and inserting in lieu thereof "527,000,000 barrels"; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) acquisition, transportation, and injection activities for the Reserve are being undertaken, beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, at a level sufficient to assure that petroleum products in storage in the Reserve will be increased at a minimum annual average rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution.".

Subtitle C—Federal Energy Conservation Shared Savings

SEC. 7201. SHARED ENERGY SAVINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act (42 U.S.C. 8201 and following) is amended by adding at the end the following new title:

"TITLE VIII—SHARED ENERGY SAVINGS

42 USC 8287.

"SEC. 801. AUTHORITY TO ENTER INTO CONTRACTS.

"The head of a Federal agency may enter into contracts under this title solely for the purpose of achieving energy savings and benefits ancillary to that purpose. Each such contract may, notwithstanding any other provision of law, be for a period not to exceed 25 years. Such contract shall provide that the contractor shall incur costs of implementing energy savings measures, including at least the costs (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel, in exchange for a share of any energy savings directly resulting from implementation of such measures during the term of the contract.

42 USC 8287a.

"SEC. 802. PAYMENT OF COSTS.

"Any amount paid by a Federal agency pursuant to any contract entered into under this title may be paid only from funds appropriated or otherwise made available to the agency for fiscal year 1986 or any fiscal year thereafter for the payment of energy expenses (and related operation and maintenance expenses).

42 USC 8287b.

"SEC. 803. REPORTS.

"Each Federal agency shall periodically furnish the Secretary of Energy with full and complete information on its activities under this title, and the Secretary shall include in the report submitted to Congress under section 550 a description of the progress made by each Federal agency in—

100 STAT. 143

42 USC 8260.

"(1) including the authority provided by this title in its contracting practices; and

"(2) achieving energy savings under contracts entered into under this title.

42 USC 8287c.

"SEC. 804. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Federal agency' means an agency defined in section 551(1) of title 5, United States Code, and

"(2) the term 'energy savings' means a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, utilized in an existing federally owned building or buildings or other federally owned facilities as a result of—

"(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services; or

"(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by adding the following at the end:

"TITLE VIII—SHARED ENERGY SAVINGS

"Sec. 801. Authority to enter into contracts.
"Sec. 802. Payment of costs.
"Sec. 803. Reports.
"Sec. 804. Definitions.".

Subtitle D—Biomass Energy and Alcohol Fuels Loan Guarantees

SEC. 7301. BIOMASS ENERGY AND ALCOHOL FUELS LOAN GUARANTEES.

Section 221 of the Biomass Energy and Alcohol Fuels Act of 1980 (Public Law 96–294; 42 U.S.C. 8821) is amended by—

(1) striking out "September 30, 1985" and inserting in lieu thereof "June 30, 1986"; and

(2) adding at the end thereof the following: "Notwithstanding any other provision of this subtitle, the Secretary of Energy may modify the terms and conditions of any conditional commitment for a loan guarantee under this subtitle made before October 1, 1984, including the amount of the loan guarantee. Nothing in this section shall be interpreted as indicating Congressional approval with respect to any pending conditional commitments under this Act.".

Subtitle E—Synthetic Fuels

Synthetic Fuels Corporation Act of 1985.
42 USC note prec. 8791.

SEC. 7401. SHORT TITLE.

This subtitle may be cited as the "Synthetic Fuels Corporation Act of 1985".

100 STAT. 144

42 USC note prec. 8791.
Prohibitions.

SEC. 7402. CESSATION OF FINANCIAL ASSISTANCE AUTHORITY.

Effective on the date of enactment of this Act, the United States Synthetic Fuels Corporation (hereafter in this subtitle referred to as the "Corporation") may not make any legally binding awards or commitments for financial assistance (including any changes in an existing award or commitment) pursuant to the Energy Security Act for synthetic fuel project proposals, except that nothing in this Act shall impair or alter the powers, duties, rights, obligations, privileges, or liabilities of the Corporation, its Board or Chairman, or project sponsors in the performance and completion of the terms and undertakings of a legally binding award or commitment entered into prior to the date of enactment of this Act.

2 USC 8701 .ote.

42 USC note prec. 8791.

SEC. 7403. TERMINATION OF THE CORPORATION.

(a) Within 60 days of the date of enactment of this Act, the Directors of the Corporation shall terminate their duties under the Energy Security Act and be discharged.

(b) Within 120 days of the date of enactment of this Act, the Corporation shall terminate, except as otherwise provided in this subtitle, in accordance with subtitle J of part B of title I of the Energy Security Act.

42 USC 8791.

42 USC note prec. 8791.

SEC. 7404. DUTIES OF SECRETARY OF THE TREASURY.

(a) Within 60 days of the date of enactment of this Act (or earlier, in the event of absence of a Chairman of the Board of Directors of the Corporation), the Secretary of the Treasury shall assume the duties of the Chairman of the Board of Directors of the Corporation.

Prohibitions.

(b) Notwithstanding any other provision of law, the duties and responsibilities of the Secretary of the Treasury under subtitle J of part B of title I of the Energy Security Act or this Act may not be transferred to any other Federal department or agency.

(c) Notwithstanding such termination of the Corporation, the Advisory Committee established under section 123 of the Energy Security Act (42 U.S.C 8719) shall remain in effect to advise the Secretary of the Treasury regarding the administration of any contract or obligation of the Corporation pursuant to subtitle D of part B of title I of such Act.

42 USC 8731.

42 USC 8731.

(d) To the extent that the Secretary of the Treasury may be required to take an action under section 131(q) of the Energy Security Act in connection with an award or commitment of financial assistance under such Act, the Secretary shall complete such action within 30 days of the date of enactment of this Act.

42 USC note prec. 8791.
Contract.

SEC. 7405. SALARIES AND COMPENSATION RIGHTS.

(a) The Director of the Office of Personnel Management shall, before February 1, 1986, determine the amount of compensation or benefits which each Director, officer, or employee of the Corporation shall be legally entitled to under any contract as of the date of enactment of this Act.

Prohibition.

(b) Effective on the date of enactment of this Act, no change in any Director, officer, or employee compensation or benefits shall be allowed or permitted, unless the Director of the Office of Personnel Management agrees that such change is reasonable.

(c) Effective on the date of enactment of this Act—

(1) no officer or employee of the Corporation shall receive a salary in excess of the rate of basic pay payable for level IV of the Executive Schedule under title 5 of the United States Code; and

Prohibition.

(2) the Corporation shall not waive any requirements in its By-Laws which are necessary for a Director, officer, or employee to qualify for pension or termination benefits under the By-Laws and written personnel policies and procedures in effect on the date of enactment of this Act.

42 USC note prec. 8791.

SEC. 7406. REPORT TO THE CONGRESS.

The Corporation shall, within 60 days of the date of enactment of this Act, transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Energy and Commerce and Committee on Banking, Housing and Urban Affairs of the House of Representatives a report—

(1) containing a review of implementation of its Phase I Business Plan dated February 19, 1985; and

(2) fulfilling the requirements of section 126(b)(3) of the Energy Security Act (42 U.S.C. 8722(b)(3)).

Subtitle F—Uranium Enrichment

SEC. 7501. AUTHORIZATION OF APPROPRIATIONS.

In accordance with section 660 of the Department of Energy Organization Act (42 U.S.C. 7270), there is authorized to be appropriated to the Department of Energy for each of the fiscal years 1986, 1987, and 1988 to carry out uranium enrichment service activities an amount equal to the difference between—

(1) the revenues to be received during each such fiscal year by the Department of Energy in providing uranium enrichment service activities, as estimated in the budget submitted by the President to the Congress for each such fiscal year; and

(2) the amount determined by the Secretary of Energy under section 7502(c)(1) for each such fiscal year.

SEC. 7502. REPAYMENTS TO UNITED STATES TREASURY.

(a) Partial Repayment of Unrecovered Costs.—

(1) In general.—The Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of unrecovered Federal Government costs for uranium enrichment service activities, an amount determined by the Secretary under subsection (c) for each of the fiscal years 1986, 1987, and 1988.

(2) Revenues in excess of expenditures.—In addition to the payments required under paragraph (1), the Secretary of Energy shall deposit in the general fund of the Treasury of the United States, in partial repayment of amounts identified by

the Secretary under subsection (c)(4)(B), any revenues in excess of expenditures received for the provision of such activities during the 3-year period referred to in paragraph (1).

(b) REPAYMENT SCHEDULE.—The Secretary of Energy may make the repayments required in subsection (a) for any fiscal year on a quarterly basis.

(c) DETERMINATION OF SECRETARY.—

(1) IN GENERAL.—The Secretary of Energy shall determine, in his or her discretion, the amount of partial repayment to be made under subsection (a)(1) for each of the fiscal years 1986, 1987, and 1988, consistent with the financial integrity of the uranium enrichment service activities program during a period of not less than 10 years. The amount of such repayment shall not adversely affect the reliability of the supply of uranium enrichment services at competitive prices for existing and potential customers. The determinations under this paragraph shall be made after notice and opportunity for public comment.

(2) REPAYMENT GOALS.—The Secretary of Energy shall seek to achieve the following repayment amounts under subsection (a)(1):

(A) $110,000,000 for fiscal year 1986;
(B) $150,000,000 for fiscal year 1987; and
(C) $150,000,000 for fiscal year 1988.

(3) SCHEDULE FOR DETERMINATION.—The Secretary of Energy shall make the determination required in paragraph (1) for any fiscal year before the President submits to the Congress the budget for such fiscal year, except that the Secretary may make subsequent revisions in such determination.

(4) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—The Secretary of Energy shall submit to the Congress any determination made under paragraph (1), together with the reasons underlying such determination.

(B) INITIAL SUBMISSION.—The Secretary shall include in the initial submission under this paragraph an estimate of the amount of prior investment in the uranium enrichment service activities program that remains unrecovered.

SEC. 7503. URANIUM ENRICHMENT REPORT.

Congress.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce and on Interior and Insular Affairs of the House of Representatives a report regarding the effects of the September 19, 1985, decision of the United States District Court for the District of Colorado holding that the utility services uranium enrichment contracts of the Department of Energy are null and void (Western Nuclear Inc. v. F. Clark Huffman, Civil No. 84-C-2315). To the extent that it will not compromise the appeals process or the competitive position of the Department of Energy with regard to uranium enrichment, the report shall identify—

(1) the effects of the decision on—

(A) the operation of the uranium enrichment facilities of the Department of Energy; and

(B) the revenues of the uranium enrichment program; and

(2) how the response of the Department of Energy may mitigate such effects.

Subtitle G—Nuclear Regulatory Commission Annual Charges

SEC. 7601. NUCLEAR REGULATORY COMMISSION ANNUAL CHARGES.

42 USC 2213.
Congress.

(a) SUBMISSION OF REPORT.—Within 90 days after the date of the enactment of this Act, the Nuclear Regulatory Commission shall submit to the Committee on Energy and Commerce and the Commit-

100 STAT. 147 tee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate a report evaluating the feasibility and necessity of establishing a system for the assessment and collection of annual charges from persons licensed by the Commission pursuant to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) to fund all or part of the activities conducted by the Commission pursuant to such Act. Such report shall include an analysis of—

(1) the extent to which the Commission's existing statutory or regulatory authority to assess and collect annual charges, including the authority of the Commission to assess and collect fees pursuant to title V of the Independent Offices Appropriation Act of 1952, is adequate to enable the Commission to assess and collect fees commensurate with the value of the benefit rendered to the licensee and the cost to the Commission of rendering such benefit; 31 USC 9701.

(2) the amounts currently assessed and collected by the Commission pursuant to existing statutory or regulatory authority, and the purposes for which such fees are assessed and collected; and

(3) any recommendations of the Commission for expanding the existing statutory authority to assess and collect fees, including the Commission's justification for such expansion.

(b) Assessment and Collection.—

(1) In general.—Upon the expiration of a period of 45 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) following receipt by the Congress of the report required pursuant to subsection (a), the Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis, except that—

(A) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 33 percent of the costs incurred by the Commission with respect to such fiscal year; and

(B) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

(2) Establishment of amount by rule.—The amount of the charges assessed pursuant to this paragraph shall be established by rule.

Outer Continental Shelf Lands Act Amendments of 1985.
43 USC 1301 note.

TITLE VIII—OUTER CONTINENTAL SHELF AND RELATED PROGRAMS

SEC. 8001. SHORT TITLE.

This title may be referred to as the "Outer Continental Shelf Lands Act Amendments of 1985". 100 STAT. 148

SEC. 8002. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended in paragraph (4) of section 3 by deleting the word "and" at the end of subparagraph (A); deleting the semicolon at the end of subparagraph (B) and inserting in lieu thereof a period; designating subparagraph (B) as subparagraph (C); and inserting after subparagraph (A) the following new subparagraph (B): 43 USC 1332.

Mines and mining.
State and local governments.
Infra.

"(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 8(g), will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and".

SEC. 8003. REVISION OF SECTION 8(g).

Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended to read as follows:

Contracts.
State and local governments.
Energy.

"(g)(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 26 of this Act, provide the Governor of such State— 43 USC 1352.

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)–(h) of section 26 of this Act shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)–(h) of section 26 of this Act shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

Alaska.

"(2) Notwithstanding any other provision of this Act, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under section 7 of this Act entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the seaward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three nautical miles of the seaward boundary, a percentage of bonuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

43 USC 1336.

100 STAT. 149

"(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

"(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

"(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under section 7 of this Act, the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of such account shall be distributed as follows:

43 USC 1336.

> "Upon the settlement of any boundary dispute which is subject to a section 7 agreement between the United States and a State, the Secretary shall pay to such State all moneys due such State from amounts deposited in the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this Act, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

Post, p. 150.

100 STAT. 150

"(B) This paragraph applies to all Federal oil and gas lease sales, under this Act, including joint lease sales, occurring after September 18, 1978.

"(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

"(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.".

43 USC 1337 note.
State and local governments.

SEC. 8004. DISTRIBUTION OF SECTION 8(g) ACCOUNT.

(a) Prior to April 15, 1986, the Secretary shall distribute to the designated coastal States the sum of—

(1) the amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title, for the period between October 1, 1985, and the date of such distribution, and

Ante, p. 148.

(2) the amounts due each such State under subsection (b)(1)(A) of this section for the period prior to October 1, 1985.

(b)(1) As a fair and equitable disposition of all revenues (including interest thereon) derived from any lease of Federal lands wholly or partially within 3 miles of the seaward boundary of a coastal State prior to October 1, 1985, the Secretary shall distribute:

(A) from the funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title the following sums:

	($ million)
Louisiana	572
Texas	382
California	338
Alabama	66
Alaska	51
Mississippi	14
Florida	0.03

as well as 27 percent of the royalties, derived from any lease of Federal lands, which have been deposited through September 30, 1985, in the separate account described in this paragraph and interest thereon accrued through September 30, 1985, and shall transmit any remaining amounts to the miscellaneous receipts account of the Treasury of the United States; and

43 USC 1301 note.

(B) from revenues derived from any lease of Federal lands under the Outer Continental Shelf Lands Act, as amended, prior to April 15 of each of the fifteen fiscal years following the fiscal year in which this title is enacted, 3 percent of the following sums in each of the five fiscal years following the date of enactment of this Act, 7 percent of such sums in each of the next five fiscal years, and 10 percent of such sums in each of the following five fiscal years:

	($ million)
Louisiana	84
Texas	134
California	289
Alabama	7
Alaska	134
Mississippi	2.

100 STAT. 151

Claims.

Ante, p. 148.

(2) The acceptance of any payment by a State under this section shall satisfy and release any and all claims of such State against the United States arising under, or related to, section 8(g) of the Outer Continental Shelf Lands Act, as it was in effect prior to the date of enactment of this Act and shall vest in such State the right to receive payments as set forth in this section.

Louisiana.

(c) Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under subtitle A of title VIII (Outer Continental Shelf and Related Programs) of this Act shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986, except that the $572,000,000 set forth in subsection 8004(b)(1)(A) of this section shall only accrue interest from April 15, 1986 to October 1, 1986, at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana.

SEC. 8005. IMMOBILIZATION OF BOUNDARIES.

State and local governments.

Section 2(b) of the Submerged Lands Act (43 U.S.C. 1301(b)) is amended by inserting before the semicolon at the end a comma and the following: "except that any boundary between a State and the United States under this Act which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory".

Medicare and Medicaid Budget Reconciliation Amendments of 1985.
42 USC 1305 note.

TITLE IX—MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH PROGRAMS

SEC. 9000. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

This title may be cited as the "Medicare and Medicaid Budget Reconciliation Amendments of 1985".

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PART 1—PROVISIONS RELATING TO PART A OF MEDICARE

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SEC. 9101. RATE OF INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) EXTENSION OF CURRENT FREEZE ON PAYMENT RATES THROUGH APRIL 30, 1986.—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107) is amended to read as follows:

42 USC 1395ww note.

"(c) EXTENSION PERIOD DEFINED.—

"(1) HOSPITAL PAYMENTS.—For purposes of subsection (a), the term 'extension period' means the period beginning on October 1, 1985, and ending on April 30, 1986.".

(b) Applicable Percentage Increase.—Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended to read as follows:

"(B)(i) For purposes of subparagraph (A) for 12-month cost reporting periods beginning during a fiscal year and for purposes of subsection (d) for discharges occurring during a fiscal year, the 'applicable percentage increase' shall be—

"(I) for fiscal year 1986, ½ percent,

"(II) for fiscal years 1987 and 1988, a percentage determined by the Secretary pursuant to subsection (e)(4), but not to exceed the market basket percentage increase (as defined in clause (ii)), and

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"(III) for fiscal year 1989 and subsequent fiscal years, the percentage determined by the Secretary pursuant to subsection (e)(4).

"(ii) For purposes of clause (i), the term 'market basket percentage increase' means, with respect to cost reporting periods and discharges occurring in a fiscal year, the percentage, estimated by the Secretary before the beginning of the period or fiscal year, by which the cost of the mix of goods and services (including personnel costs but excluding nonoperating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for the period or fiscal year will exceed the cost of such mix of goods and services for the preceding 12-month cost reporting period or fiscal year.".

(c) Conforming Amendments.—(1) Section 1886(d)(3)(A) of such Act (42 U.S.C. 1395ww(d)(3)(A)) is amended by striking out "for fiscal year 1985" and inserting in lieu thereof "for each of fiscal years 1985 and 1986".

(2) Section 1886(e)(3) of such Act is amended by striking out "(instead of the applicable percentage increase described in subsection (b)(3)(B))".

(3) Section 1886(e)(4) of such Act is amended by striking out "1986" and inserting in lieu thereof "1987".

42 USC 1395ww note.

(d) Effective Date of Freeze Extension.—The amendment made by subsection (a) shall take effect on March 15, 1986, and the amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

42 USC 1395ww note.

(e) Effective Date for Increase.—

(1) PPS hospitals, DRG portion of payment.—In the case of a subsection (d) hospital (as defined in paragraph (4))—

(A) the amendment made by subsection (b) shall apply to payments made under section 1886(d)(1)(A) of such Act made on the basis of discharges occurring on or after May 1, 1986; and

(B) for discharges occurring on or after October 1, 1986, the applicable percentage increase (described in section 1886(b)(3)(B)) for discharges occurring during fiscal year 1986 shall be deemed to have been ½ percent.

(2) PPS hospitals, hospital specific portion of payment.—In the case of a subsection (d) hospital—

(A) the amendment made by subsection (b) shall apply to payments under section 1886(d)(1)(A) of the Social Security Act made on the basis of discharges occurring during a cost reporting period of a hospital, for the hospital's cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the cost reporting period beginning during fiscal year 1986, the applicable percentage increase (as defined in section 1886(b)(3)(B) of such Act) for the—

(i) first 7 months of the cost reporting period shall be 0 percent, and

(ii) for the remaining 5 months of the cost reporting period shall be ½ percent; and

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the previous cost reporting period shall be deemed to have been ½ percent.

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(3) PPS-exempt hospitals.—In the case of a hospital that is not a subsection (d) hospital—

(A) the amendment made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985;

(B) notwithstanding subparagraph (A), for the hospital's cost reporting period beginning during fiscal year 1986, payment under title XVIII of the Social Security Act shall be made as though the applicable percentage increase described in section 1886(b)(3)(B) were equal to 5/24 of 1 percent; and

42 USC 1395c.

42 USC 1395ww.

(C) for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase (as so defined) with respect to the cost reporting period beginning during fiscal year 1986 shall be deemed to have been ½ percent.

(4) Definition.—In this subsection, the term "subsection (d) hospital" has the meaning given such term in section 1886(d)(1)(B) of the Social Security Act.

SEC. 9102. ONE-YEAR EXTENSION OF PPS TRANSITION.

(a) One-year Delay of Full Implementation of Prospective Payment System.—Section 1886(d)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(A)) is amended by striking out "1986" in clauses (ii) and (iii) and inserting in lieu thereof "1987".

(b) New Target and DRG Percentages for Remainder of Fiscal Year 1986.—Section 1886(d)(1)(C) of such Act is amended—

(1) by striking out ", or discharges occurring",

(2) by striking out "and" at the end of clause (ii),

(3) by striking out "(iii) on or after October 1, 1985, and before October 1, 1986" in clause (iii) and inserting in lieu thereof "(iv) on or after October 1, 1986, and before October 1, 1987", and

(4) by inserting after clause (ii) the following new clause: "(iii) on or after October 1, 1985, and before October 1, 1986, the 'target percentage' is 45 percent and the 'DRG percentage' is 55 percent; and".

(c) New Blended National-Regional DRG Rate for Remainder of Fiscal Year 1986.—Section 1886(d)(1)(D) of such Act is amended—

(1) by striking out "cost reporting periods beginning, or", and

(2) by striking out "1985" and "1986" and inserting in lieu thereof "1986" and "1987", respectively, each place it appears.

(d) Effective Dates.—

42 USC 1395ww note.

(1) Delay in final transition.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) Change in hospital specific percentage.—The amendments made by subsection (b) shall apply—

(A) to cost reporting periods beginning on or after October 1, 1985, but

(B) notwithstanding subparagraph (A), for a hospital's cost reporting period beginning during fiscal year 1986, for purposes of section 1886(d)(1)(A) of the Social Security Act—

(i) during the first 7 months of the period the "target percentage" is 50 percent and the "DRG percentage" is 50 percent, and

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(ii) during the remaining 5 months of the period the "target percentage" is 45 percent and the "DRG percentage" is 55 percent.

(3) CHANGE IN BLENDED RATE.—The amendments made by subsection (c) shall apply to discharges occurring on or after May 1, 1986.

(4) EXCEPTION.—

Prohibition.

42 USC 1395ww.

(A) Notwithstanding any other provision of this subsection, the amendments made by this section shall not apply to payments with respect to the operating costs of inpatient hospital services (as defined in section 1886(a)(4) of the Social Security Act) of a subsection (d) hospital (as defined in section 1886(d)(1)(B) of such Act) located in the State of Oregon.

(B) Notwithstanding any other provision of law, for a cost reporting period beginning during fiscal year 1986 of a subsection (d) hospital to which the amendments made by this section do not apply, for purposes of section 1886(d)(1)(A) of of Social Security Act—

(i) during the first 7 months of the period the "target percentage" is 50 percent and the "DRG percentage" is 50 percent, and

(ii) during the remaining 5 months of the period the "target percentage" is 25 percent and the "DRG percentage" is 75 percent.

(C) Notwithstanding any other provision of law, for purposes of section 1886(d)(1)(D) of such Act, the applicable combined adjusted DRG prospective payment rate for a subsection (d) hospital to which the amendments made by this section do not apply is, for discharges occurring on or after October 1, 1985, and before May 1, 1986, a combined rate consisting of 25 percent of the national adjusted DRG prospective payment rate and 75 percent of the regional adjusted DRG prospective payment rate for such discharges.

SEC. 9103. APPLICATION OF REVISED HOSPITAL WAGE INDEX.

42 USC 1395ww note.

(a) APPLICATION OF REVISED INDEX PROSPECTIVELY.—(1) Section 2316(b) of the Deficit Reduction Act of 1984 (98 Stat. 1081) is amended to read as follows:

42 USC 1395ww.

"(b) The Secretary shall adjust the payment amounts for hospitals for discharges occurring on or after May 1, 1986, to reflect the changes the Secretary has promulgated in final regulations (on September 3, 1985) relating to the hospital wage index under section 1886(d)(3)(E) of the Social Security Act. For discharges occurring after September 30, 1986, the Secretary shall provide for such periodic adjustments in the appropriate wage index used under that section as may be necessary, taking into account changes in the wage levels and relative proportions of full-time and part-time workers.".

42 USC 1395ww note.

(2) The amendment made by paragraph (1) shall be effective as if it had been included in the Deficit Reduction Act of 1984.

26 USC 1 note.
42 USC 1395ww note.

(b) STUDY OF METHODOLOGY FOR AREA WAGE ADJUSTMENT FOR CENTRAL CITIES.—(1) The Secretary of Health and Human Services, in consultation with the Prospective Payment Assessment Commission, shall collect information and shall develop one or more meth-

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42 USC 1395ww.

odologies to permit the adjustment of the wage indices used for purposes of sections 1886(d)(2)(C)(ii), 1886(d)(2)(H), and 1886(d)(3)(E) of the Social Security Act, in order to more accurately reflect hospital labor markets, by taking into account variations in wages and wage-related costs between the central city portion of urban areas and other parts of urban areas.

Report.

(2) The Secretary shall report to Congress on the information collected and the methodologies developed under paragraph (1) not

later than May 1, 1987. The report shall include a recommendation as to the feasibility and desirability of implementing such methodologies.

SEC. 9104. PAYMENTS TO HOSPITALS FOR INDIRECT COSTS OF MEDICAL EDUCATION.

(a) Payment for Indirect Costs of Medical Education.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended to read as follows:

"(B) The Secretary shall provide for an additional payment amount for subsection (d) hospitals with indirect costs of medical education, in an amount computed in the same manner as the adjustment for such costs under regulations (in effect as of January 1, 1983) under subsection (a)(2), except as follows:

"(i) The amount of such additional payment shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A), by (II) the indirect teaching adjustment factor described in clause (ii).

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

"(I) on or after May 1, 1986, and before October 1, 1988, is equal to $2 \times ((1+r)^{.405}-1)$, or

"(II) on or after October 1, 1988, is equal to $1.5 \times ((1+r)^{.5795}-1)$,

where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds.

"(iii) In determining such adjustment the Secretary shall not distinguish between those interns and residents who are employees of a hospital and those interns and residents who furnish services to a hospital but are not employees of such hospital.

"(iv) In determining such adjustment, the Secretary shall continue to count interns and residents assigned to outpatient services of the hospital as part of the calculation of the full-time-equivalent number of interns and residents.".

(b) Adjustment of Payment Amounts.—

(1) Restandardizing DRG payment amounts to reflect change in formula.—Section 1886(d)(2)(C)(i) of such Act is amended by inserting "(taking into account, for discharges occurring after September 30, 1986, the amendments made by section 9104(a) of the Medicare and Medicaid Budget Reconciliation Amendments of 1985)" after "medical education costs".

(2) Providing for system savings from change in formula.—Subparagraph (C) of section 1886(d)(3) of such Act is amended—

(A) by inserting "(i)" after "(C)",

(B) by inserting "for fiscal year 1985" after "neutrality", 100 STAT. 158

(C) by striking out "The Secretary" and inserting in lieu thereof "For discharges occurring in fiscal year 1985, the Secretary", and

(D) by adding at the end the following new clause:

"(ii) Reducing for savings from amendment to indirect teaching adjustment for discharges after September 30, 1986.—For discharges occurring after September 30, 1986, the Secretary shall further reduce each of the average standardized amounts (in a proportion which takes into account the differing effects of the standardization effected under paragraph (2)(C)(i)) so as to provide for a reduction in the total of the payments (attributable to this paragraph) made for discharges occurring—

"(I) on or after October 1, 1986, and before October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) that would have resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 if the factor described in clause (ii)(II) of paragraph (5)(B) were applied for discharges occurring during such period instead of the factor described in clause (ii)(I) of that paragraph, and

"(II) on or after October 1, 1988, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) for those discharges that has resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985.".

42 USC 1395ww.

(3) CONFORMING AMENDMENT.—Clauses (i)(I) and (ii)(I) of section 1886(d)(3)(D) of such Act are each amended by inserting "or reduced" after "(B), and adjusted".

42 USC 1395ww note.

(c) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to discharges occurring on or after May 1, 1986.

(2) The amendments made by this section shall not first be applied to discharges occurring as of a date unless, for discharges occurring on that date, the amendments made by section 9105 are also being applied.

SEC. 9105. PAYMENTS FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) PAYMENT FOR HOSPITALS WHICH SERVE A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

Urban areas.
State and local governments.

"(F)(i) For discharges occurring on or after May 1, 1986, and before October 1, 1988, the Secretary shall provide, in accordance with this subparagraph, for an additional payment amount for each subsection (d) hospital which—

"(I) serves a significantly disproportionate number of low-income patients (as defined in clause (v)), or

"(II) is located in an urban area, has 100 or more beds, and can demonstrate that its net inpatient care revenues (excluding any of such revenues attributable to this title or State plans approved under title XIX), during the cost reporting period in which the discharges occur, for indigent care from State and local government sources exceed 30 percent of its total of such revenues during the period.

"(ii) The amount of such payment for each discharge shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A) for that discharge, by (II) the disproportionate share adjustment percentage established under clause (iii) or (iv) for the cost reporting period in which the discharge occurs.

Rural areas.

"(iii) The disproportionate share adjustment percentage for a cost reporting period for a hospital described in clause (i)(II) is equal to 15 percent.

"(iv) The disproportionate share adjustment percentage for a cost reporting period for a hospital that is not described in clause (i)(II and that—

"(I) is located in an urban area and has 100 or more beds, is equal to the lesser of 15 percent, or the percent determined in accordance with the following formula: $(P-15)(.5) + 2.5$, where 'P' is the hospital's disproportionate patient percentage (as defined in clause (vi));

"(II) is located in an urban area and has less than 100 beds, is equal to 5 percent; or

"(III) is located in a rural area, is equal to 4 percent.

Rural areas.

"(v) In this subparagraph, a hospital 'serves a significantly disproportionate number of low income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (vi)) for that period which equals, or exceeds—

"(I) 15 percent, if the hospital is located in an urban area and has 100 or more beds,

"(II) 40 percent, if the hospital is located in an urban area and has less than 100 beds, or

"(III) 45 percent, if the hospital is located in a rural area.

"(vi) In this subparagraph, the term 'disproportionate patient percentage' means, with respect to a cost reporting period of a hospital, the sum of—

"(I) the fraction (expressed as a percentage), the numerator of which is the number of such hospital's patient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of this title and were entitled to supplementary security income benefits (excluding any State supplementation) under title XVI of this Act, and the denominator of which is the number of such hospital's patient days for such fiscal year which were made up of patients who (for such days) were entitled to benefits under part A of this title, and

"(II) the fraction (expressed as a percentage), the numerator of which is the number of the hospital's patient days for such period which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX, but who were not entitled to benefits under part A of this title, and the denominator of which is the total number of the hospital's patient days for such period.".

(b) RESTANDARDIZING DRG PAYMENT AMOUNTS TO REFLECT DISPROPORTIONATE SHARE PAYMENTS.—Section 1886(d)(2)(C) of such Act is amended— 42 USC 1395ww.

(1) by striking out "and" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new clause:

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"(iv) for discharges occurring on or after October 1, 1986, and before October 1, 1988, excluding an estimate of the additional payments to certain hospitals to be made under paragraph (5)(F).".

(c) CONFORMING AMENDMENT.—Section 1886(d)(5)(C)(i) of such Act is amended by striking out ", and of public or other hospitals that serve a significantly disproportionate number of patients who have low income or are entitled to benefits under part A of this title". 42 USC 1395ww.

(d) CBO REPORT.—The Congressional Budget Office shall study, and report to Congress not later than January 1, 1987, on the impact of the implementation of this section on hospitals, including the appropriateness of the factors used in determining which hospitals are eligible for additional payments under section 1886(d)(5)(F) of the Social Security Act and the amount of the additional payments made to those hospitals.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after May 1, 1986. 42 USC 1395ww.

SEC. 9106. TREATMENT OF CERTAIN RURAL OSTEOPATHIC HOSPITALS AS RURAL REFERRAL CENTERS.

(a) IN GENERAL.—Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by inserting before the period at the end of the second sentence the following: "and which shall not require a rural osteopathic hospital to have more than 3,000 discharges in a year in order to be classified as a rural referral center".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 1986. 42 USC 1395ww note.

SEC. 9107. RETURN ON EQUITY CAPITAL FOR INPATIENT HOSPITAL SERVICES AND OTHER SERVICES.

(a) Inpatient Hospital Services.—

(1) Phase-down in payment for return on equity capital.—Section 1886(g)(2) of the Social Security Act (42 U.S.C. 1395ww(g)(2)) is amended—

(A) by inserting "the applicable percentage (described in subparagraph (B)) of" before "the average of the rates of interest",

(B) by inserting "(A)" after "(2)", and

(C) by adding at the end the following new subparagraph:

"(B) In this paragraph, the 'applicable percentage' is—

"(i) 75 percent, for cost reporting periods beginning during fiscal year 1987,

"(ii) 50 percent, for cost reporting periods beginning during fiscal year 1988,

"(iii) 25 percent, for cost reporting periods beginning during fiscal year 1989, and

"(iv) 0 percent, for cost reporting periods beginning on or after October 1, 1989.".

(2) Exclusion from prospective payment.—The second sentence of section 1886(a)(4) of such Act is amended—

(A) by inserting "a return on equity capital," after "anesthetist,", and

(B) by inserting "other" before "capital-related costs".

100 STAT. 161

(b) Other Services.—

(1) Limitation on rate.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(P) If such regulations provide for the payment for a return on equity capital (other than with respect to costs of inpatient hospital services), the rate of return to be recognized, for determining the reasonable cost of services furnished in a cost reporting period, shall be equal to the average of the rates of interest, for each of the months any part of which is included in the period, on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.".

(2) Conforming amendments.—Section 1861(v)(1)(B) of such Act is amended—

(A) by striking out "any fiscal period" and "such fiscal period" and inserting in lieu thereof "any cost reporting period" and "the period", respectively, and

(B) by striking out "not exceed one and one-half times" in the second sentence and inserting in lieu thereof "be equal to".

42 USC 1395ww note.

(c) Effective Dates.—(1) The amendments made by subsection (a) shall apply to hospital cost reporting periods beginning on or after October 1, 1986.

42 USC 1395x note.

(2) The amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985.

SEC. 9108. CONTINUATION OF MEDICARE REIMBURSEMENT WAIVERS FOR CERTAIN HOSPITALS PARTICIPATING IN REGIONAL HOSPITAL REIMBURSEMENT DEMONSTRATIONS.

42 USC 1395ww note.

42 USC 1395b-1 note.

Infra.

(a) Continuation of Waivers.—A hospital reimbursement control system which, on January 1, 1985, was carrying out a demonstration under a contract which had been approved by the Secretary of Health and Human Services pursuant to section 222(a) of the Social Security Amendments of 1972, or under section 402 of the Social Security Amendments of 1967 (as amended by section 222(b) of the Social Security Amendments of 1972), shall be deemed to meet the requirements of section 1886(c)(1)(A) of the Social Security Act if such system applies—

(1) to substantially all non-Federal acute care hospitals (as defined by the Secretary) in the geographic area served by such system on January 1, 1985, and

(2) to the review of at least 75 percent of—

(A) all revenues or expenses in such geographic area for inpatient hospital services, and

(B) revenues or expenses in such geographic area for inpatient hospital services provided under the State's plan approved under title XIX.

(b) APPROVAL.—In the case of a hospital cost control system described in subsection (a), the requirements of section 1886(c) of the Social Security Act which apply to States shall instead apply to such system and, for such purposes, any reference to a State is deemed a reference to such system.

(c) EFFECTIVE DATE.—This section shall become effective on the date of the enactment of this Act.

SEC. 9109. FOUR-YEAR TEST FOR STATE WAIVERS FOR CERTAIN STATES.

(a) IN GENERAL.—Section 1886(c) of the Social Security Act (42 U.S.C 1395ww(c)) is amended by adding at the end the following new paragraph:

Prohibition.

"(7) In the case of a State which made a request under paragraph (5) before December 31, 1984, for the approval of a State hospital reimbursement control system and which request was approved—

"(A) in applying paragraphs (1)(C) and (6), a reference to a '36-month period' is deemed a reference to a '48-month period', and

"(B) in order to allow the State the opportunity to provide the assurances described in paragraph (1)(C) for a 48-month period, the Secretary may not discontinue payments under the system, under the authority of paragraph (3)(A) because the Secretary has reason to believe that such assurances are not being (or will not be) met, before July 1, 1986.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

42 USC 1395ww note.

SEC. 9110. ASSET VALUATION FOR DONATIONS OF STATE PROPERTY TO NONPROFIT CORPORATIONS.

(a) GENERAL RULE.—Section 1861(v)(1)(O) of the Social Security Act (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) by inserting ", except as provided in clause (iv)," in clause (i) after "such regulations shall provide", and

(2) by adding at the end the following new clause:

"(iv) In the case of the transfer of a hospital from ownership by a State to ownership by a nonprofit corporation without monetary consideration, the basis for capital allowances to the new owner shall be the book value of the hospital to the State at the time of the transfer.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be applied as though they were originally included in the Deficit Reduction Act of 1984.

42 USC 1395x note.
26 USC 1 note.

SEC. 9111. PAYMENTS TO SOLE COMMUNITY HOSPITALS.

(a) ADJUSTMENT TO PAYMENT AMOUNT.—Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended by inserting after the second sentence thereof the following: "In the case of a sole community hospital which experiences, in any cost reporting period after the cost reporting period which was used as the base for determining the target amount for payments to such hospital under paragraph (1)(A)(i)(I), a significant increase in operating costs attributable to the addition of new inpatient facilities or services at such hospital (including the opening of a special care unit), the Secretary shall provide for such adjustment to the payment amounts under this subsection for such cost reporting period and subsequent cost reporting periods as may be necessary to reasonably compensate such hospital for such increased costs.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1989.

42 USC 1395ww note.

(c) Study.—The Secretary of Health and Human Services shall conduct a study of the effects of the amendment made by subsection (a). The Secretary shall report the results of such study, including recommendations for a permanent mechanism to take into account needed expansions of services by sole community hospitals and the hospital-specific medicare payment rates thereof, to the Congress prior to January 1, 1987.

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SEC. 9112. INDIRECT TEACHING ADJUSTMENT FOR CERTAIN CLINICS.

42 USC 1495y note.

(a) In General.—Section 602(k) of the Social Security Amendments of 1983 (97 Stat. 165) is amended by inserting "(1)" after "(k)" and by adding at the end the following new paragraphs:

42 USC 1395c, 1395j.

"(2) In the case of a hospital which is receiving payments pursuant to a waiver under paragraph (1), payment of the adjustment for indirect costs of approved educational activities shall be made as if the hospital were receiving under part A of title XVIII of the Social Security Act all the payments which are made under part B of such title solely by reason of such waiver.

"(3) Any waiver granted under paragraph (1) shall provide that, with respect to those items and services billed under part B of title XVIII of the Social Security Act solely by reason of such waiver—

"(A) payment under such part shall be equal to 100 percent of the reasonable charge or other applicable payment base for the items and services; and

"(B) the entity furnishing the items and services must agree to accept the amount paid pursuant to subparagraph (A) as the full charge for the items and services.".

42 USC 1395y note.

(b) Effective Dates.—(1) Section 602(k)(2) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to cost reporting periods beginning on or after January 1, 1986.

(2) Section 602(k)(3) of the Social Security Amendments of 1983 (as added by subsection (a)) shall apply to items and services furnished after the end of the 10-day period beginning on the date of the enactment of this Act.

SEC. 9113. REPORT ON IMPACT OF OUTLIER AND TRANSFER POLICY ON RURAL HOSPITALS.

42 USC 1395ww.

(a) Review.—The Secretary of Health and Human Services shall review the impact of policies respecting outliers and patient transfers on payments under section 1886(d) of the Social Security Act to rural hospitals (particularly on rural hospitals with less than 100 beds).

(b) Report.—The Secretary shall report to Congress on the findings of the review not later than January 1, 1987, and shall include in the report recommendations on changes in policies respecting outliers and patient transfers to the extent they adversely affect rural hospitals.

SEC. 9114. INFORMATION ON IMPACT OF PPS PAYMENTS ON HOSPITALS.

42 USC 1395ww note.

(a) Disclosure of Information.—The Secretary of Health and Human Services shall make available to the Prospective Payment Assessment Commission, the Congressional Budget Office, the Comptroller General, and the Congressional Research Service the most current information on the payments being made under section 1886 of the Social Security Act to individual hospitals. Such information shall be made available in a manner that permits examination of the impact of such section on hospitals.

(b) Confidentiality.—Information disclosed under subsection (a) shall be treated as confidential and shall not be subject to further disclosure in a manner that permits the identification of individual hospitals.

SEC. 9115. SPECIAL RULES FOR IMPLEMENTATION OF SUBPART.

42 USC 1395ww note.
44 USC 3501 *et seq.*

(a) Waiver of Paperwork Reduction.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this subpart and implementing the amendments made by this subpart. 100 STAT. 164

(b) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this subpart and the amendments made by this subpart.

Subpart B—Miscellaneous Provisions

SEC. 9121. RESPONSIBILITIES OF MEDICARE HOSPITALS IN EMERGENCY CASES.

(a) REQUIREMENT OF MEDICARE HOSPITAL PROVIDER AGREEMENTS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G),

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) in the case of a hospital, to comply with the requirements of section 1867 to the extent applicable.". *Infra.*

(b) REQUIREMENTS.—Title XVIII of such Act is amended by inserting after section 1866 the following new section:

"EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND WOMEN IN ACTIVE LABOR

"SEC. 1867. (a) MEDICAL SCREENING REQUIREMENT.—In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this title) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1)) exists or to determine if the individual is in active labor (within the meaning of subsection (e)(2)). 42 USC 1395dd.

"(b) NECESSARY STABILIZING TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—

"(1) IN GENERAL.—If any individual (whether or not eligible for benefits under this title) comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor, the hospital must provide either—

"(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor, or

"(B) for transfer of the individual to another medical facility in accordance with subsection (c).

"(2) REFUSAL TO CONSENT TO TREATMENT.—A hospital is deemed to meet the requirement of paragraph (1)(A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in that paragraph but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the examination or treatment.

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"(3) REFUSAL TO CONSENT TO TRANSFER.—A hospital is deemed to meet the requirement of paragraph (1) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with subsection (c) but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the transfer.

"(c) RESTRICTING TRANSFERS UNTIL PATIENT STABILIZED.—

"(1) RULE.—If a patient at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(4)(B)) or is in active labor, the hospital may not transfer the patient unless—

"(A)(i) the patient (or a legally responsible person acting on the patient's behalf) requests that the transfer be effected, or

42 USC 1395x.

"(ii) a physician (within the meaning of section 1861(r)(1)), or other qualified medical personnel when a physician is not readily available in the emergency department, has signed a certification that, based upon the reasonable risks and benefits to the patient, and based upon the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer; and

"(B) the transfer is an appropriate transfer (within the meaning of paragraph (2)) to that facility.

"(2) APPROPRIATE TRANSFER.—An appropriate transfer to a medical facility is a transfer—

"(A) in which the receiving facility—

"(i) has available space and qualified personnel for the treatment of the patient, and

"(ii) has agreed to accept transfer of the patient and to provide appropriate medical treatment;

"(B) in which the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment effected at the transferring hospital;

"(C) in which the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

"(D) which meets such other requirements as the Secretary may find necessary in the interest of the health and safety of patients transferred.

"(d) ENFORCEMENT.—

"(1) AS REQUIREMENT OF MEDICARE PROVIDER AGREEMENT.—If a hospital knowingly and willfully, or negligently, fails to meet the requirements of this section, such hospital is subject to—

"(A) termination of its provider agreement under this title in accordance with section 1866(b), or

42 USC 1395cc.

"(B) at the option of the Secretary, suspension of such agreement for such period of time as the Secretary determines to be appropriate, upon reasonable notice to the hospital and to the public.

"(2) CIVIL MONETARY PENALTIES.—In addition to the other grounds for imposition of a civil money penalty under section 1128A(a), a participating hospital that knowingly violates a requirement of this section and the responsible physician in the hospital with respect to such a violation are each subject, under that section, to a civil money penalty of not more than $25,000 for each such violation. As used in the previous sentence, the term 'responsible physician' means, with respect to a hospital's violation of a requirement of this section, a physician who—

42 USC 1320a-7a.

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"(A) is employed by, or under contract with, the participating hospital, and

"(B) acting as such an employee or under such a contract, has professional responsibility for the provision of examinations or treatments for the individual, or transfers of the individual, with respect to which the violation occurred.

"(3) CIVIL ENFORCEMENT.—

"(A) PERSONAL HARM.—Any individual who suffers personal harm as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for personal injury under the law of the State in which the hospital is located, and such equitable relief as is appropriate.

"(B) FINANCIAL LOSS TO OTHER MEDICAL FACILITY.—Any medical facility that suffers a financial loss as a direct result of a participating hospital's violation of a requirement of this section may, in a civil action against the participating hospital, obtain those damages available for financial loss, under the law of the State in which the hospital is located, and such equitable relief as is appropriate. State and local governments.

"(C) LIMITATIONS ON ACTIONS.—No action may be brought under this paragraph more than two years after the date of the violation with respect to which the action is brought.

"(e) DEFINITIONS.—In this section:

"(1) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.

"(2) The term 'active labor' means labor at a time at which—

"(A) delivery is imminent,

"(B) there is inadequate time to effect safe transfer to another hospital prior to delivery, or

"(C) a transfer may pose a threat of the health and safety of the patient or the unborn child.

"(3) The term 'participating hospital' means hospital that has entered into a provider agreement under section 1866 and has, under the agreement, obligated itself to comply with the requirements of this section. 42 USC 1395cc.

"(4)(A) The term 'to stabilize' means, with respect to an emergency medical condition, to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

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"(B) The term 'stabilized' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from the transfer of the individual from a facility.

"(5) The term 'transfer' means the movement (including the discharge) of a patient outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of a patient who (A) has been declared dead, or (B) leaves the facility without the permission of any such person.

"(f) PREEMPTION.—The provisions of this section do not preempt any State or local law requirement, except to the extent that the requirement directly conflicts with a requirement of this section.". State and local governments.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins at least 90 days after the date of the enactment of this Act. 42 USC 1395dd note.

(d) REPORT.—The Secretary of Health and Human Services shall, not later than 6 months after the effective date described in subsection (c), report to Congress on the methods to be used for monitoring and enforcing compliance with section 1867 of the Social Security Act. *Ante*, p. 164.

SEC. 9122. REQUIREMENT FOR MEDICARE HOSPITALS TO PARTICIPATE IN CHAMPUS AND CHAMPVA PROGRAMS.

Ante, p. 164. (a) In General.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ", and", and

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) in the case of hospitals which provide inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care under any health plan contracted for under section 1079 or 1086 of title 10, or under section 613 of title 38, United States Code, in accordance with admission practices, payment methodology, and amounts as prescribed under joint regulations issued by the Secretary and by the Secretaries of Defense and Transportation, in implementation of sections 1079 and 1086 of title 10, United States Code.".

42 USC 1395cc note. (b) Effective Date.—The amendments made by subsection (a) shall apply to agreements entered into or renewed on or after the date of the enactment of this Act, but shall apply only to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987.

(c) Reference to Study Required.—For a study of the use by CHAMPUS of the medicare prospective payment system, see section 634 of the Department of Defense Authorization Act, 1985 (Public 98 Stat. 2544. Law 98-525), the deadline for which is extended under section 2002 of this Act.

42 USC 1395cc note. (d) Report.—The Secretary of Health and Human Services shall report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act as a result of the additional conditions imposed under the amendments made by subsection (a).

SEC. 9123. EXTENSION AND PAYMENT FOR HOSPICE CARE.

(a) Elimination of Sunset.—Section 122(h)(1) of the Tax Equity 42 USC 1395c note. and Fiscal Responsibility Act of 1982 (P.L. 97-248, 96 Stat. 362), relating to the end of the effective date for hospice care, is amended—

(1) in subparagraph (A)—

(A) by striking out "(h)(1)(A) Subject to subparagraph (B), the" and inserting in lieu thereof "(h)(1) The", and

(B) by striking out ", and before October 1, 1986", and

(2) by striking out subparagraph (B).

(b) Increase in Payment of Daily Rates for Hospice Care.—(1) Subparagraph (B) of section 1814(i)(1) of the Social Security Act (42 U.S.C. 1395f(i)(1)) is amended to read as follows:

"(B) Notwithstanding subparagraph (A), for hospice care furnished on or after April 1, 1986, the daily rate of payment per day for routine home care shall be $63.17 and the daily rate of payment for other services included in hospice care shall be the daily rate of payment recognized under subparagraph (A) as of July 1, 1985, increased by $10.".

(2) Subparagraph (C) of such section is amended by striking out "1985" and inserting in lieu thereof "1986".

SEC. 9124. LIMITING THE PENALTY FOR LATE ENROLLMENT IN PART A.

(a) Limiting Penalty to 10 Percent and Twice the Period During Which Not Enrolled.—Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(3) by adding at the end the following new paragraph:

"(7) any percent increase effected under section 1839(b) in an individual's monthly premium may not exceed 10 percent and shall only apply to premiums paid during a period equal to twice the number of months in the full 12-month periods described in that section.". 42 USC 1395.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(3) shall apply to premiums paid for months beginning with July 1986. 42 USC 1395i-2 note.

(2) In applying that amendment, months (before, during, or after April 1986) in which an individual was required to pay a premium increased under the section that was so amended shall be taken into account in determining the month in which the premium will no longer be subject to an increase under that section as so amended.

SEC. 9125. PROMULGATION OF INPATIENT HOSPITAL DEDUCTIBLE.

(a) CHANGE IN DEADLINE.—Section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2)) is amended by striking out "October 1" and inserting in lieu thereof "September 15".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 1985. 42 USC 1395e note.

SEC. 9126. ACCESS TO SKILLED NURSING FACILITIES.

(a) OPTIONAL PROSPECTIVE RATES FOR CERTAIN SKILLED NURSING FACILITIES.—Section 1888 of the Social Security Act (42 U.S.C. 1395yy) is amended by adding at the end the following new subsection:

"(d)(1) Any skilled nursing facility may choose to be paid under this subsection on the basis of a prospective payment for all routine service costs (and capital-related costs) of extended care services provided in a fiscal year if such facility had, in the preceding fiscal year, fewer than 1,500 patient days with respect to which payments were made under this title. Such prospective payment shall be in lieu of payments which would otherwise be made for routine service costs pursuant to section 1861(v) and subsections (a) through (c) of this section and capital-related costs pursuant to section 1861(v). 42 USC 1395x. This subsection shall not apply to a facility for any fiscal year immediately following a fiscal year in which such facility had 1,500 or more patient days with respect to which payments were made under this title, without regard to whether payments were made under this subsection during such preceding fiscal year. Prohibition.

"(2)(A) The amount of the payment under this section shall be determined on a per diem basis.

"(B) Subject to the limitations of subparagraph (C), for skilled nursing facilities located— Urban areas. Rural areas.

"(i) in an urban area, the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in urban areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels, and

"(ii) in a rural area the amount shall be equal to 105 percent of the mean of the per diem reasonable routine service and capital-related costs of extended care services for skilled nursing facilities in rural areas within the same region, determined without regard to the limitations of subsection (a) and adjusted for different area wage levels.

"(C) The per diem amounts determined under subparagraph (B) shall not exceed the limit on routine service costs determined under subsection (a) with respect to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility.

"(3) For purposes of this subsection, urban and rural areas shall be determined in the same manner as for purposes of subsection (a), and the term 'region' shall have the same meaning as under section 1886(d)(2)(D).

"(4) The Secretary shall establish the prospective payment amounts for each fiscal year at least 90 days prior to the beginning of such fiscal year, on the basis of the most recent data available for a 12-month period. A skilled nursing facility must notify the Secretary of its intention to be paid pursuant to this subsection for a fiscal year within 60 days after the Secretary establishes the final prospective payment amounts for such fiscal year.

Notice.

"(5) The Secretary shall provide for a simplified cost report to be filed by facilities being paid pursuant to this subsection, which shall require only the cost information necessary for determining prospective payment amounts pursuant to paragraph (2) and reasonable costs of ancillary services.

Report.

"(6) In lieu of payment on a cost basis for ancillary services provided by a facility which is being paid pursuant to this subsection, the Secretary may pay for such ancillary services on a reasonable charge basis if the Secretary determines that such payment basis will provide an equitable level of reimbursement and will ease the reporting burden of the facility.".

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(b) PUBLICATION OF DATA RELATING TO ADJUSTMENTS TO SNF LIMITS.—Section 1888(c) of such Act is amended by adding at the end thereof the following: "The Secretary shall publish the data and criteria to be used for purposes of this subsection on an annual basis.".

42 USC 1395yy.

(c) REINSTATEMENT OF WAIVER OF LIABILITY PRESUMPTION.—The Secretary of Health and Human Services shall, for purposes of determining whether payments to a skilled nursing facility should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply the same presumption of compliance (5 percent) as in effect under regulations as of July 1, 1985. Such presumption shall apply for the 30-month period beginning with the first month beginning after the date of the enactment of this Act.

42 USC 1395y note.

42 USC 1395y.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1986.

42 USC 1395yy note.

(2) The amendment made by subsection (b) shall become effective on the date of the enactment of this Act.

SEC. 9127. ADDITIONAL MEMBERS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.

(a) EXPANSION OF MEMBERSHIP.—Section 1886(e)(6)(A) of the Social Security Act (42 U.S.C. 1395ww(e)(6)(A)) is amended by striking out "15 individuals" and inserting in lieu thereof "17 individuals".

(b) APPOINTMENTS.—The Director of the Congressional Office of Technology Assessment shall appoint the two additional members of the Prospective Payment Assessment Commission, as required by the amendment made by subsection (a), no later than 60 days after the date of the enactment of this Act, for terms of three years.

42 USC 1395ww note.

SEC. 9128. SENSE OF THE SENATE WITH RESPECT TO INPATIENT HOSPITAL DEDUCTIBLE.

In view of the $92 Medicare hospital deductible increase that went into effect January 1, 1986, it is the sense of the Senate that the Committee on Finance should report legislation which will reform calculation of the annual increase in such deductible so that it is more consistent with annual increases in Medicare payments to hospitals.

SEC. 9129. MEDICARE COVERAGE OF STATE AND LOCAL EMPLOYEES.

For provision providing for medicare coverage of certain State and local employees, see section 13205 of this Act.

PART 2—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE

Subpart A—Payment-Related Provisions

SEC. 9201. EXTENSION OF WORKING AGED PROVISION.

(a) Extension of Secondary Payor Status Beyond Age 69.—Section 1862(b)(3)(A) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)) is amended—

(1) in clause (i), by striking out "who is under 70 years of age during any part of such month" and ", if the spouse is under 70 years of age during any part of such month", and 100 STAT. 171

(2) in clause (iii), by striking out "and ending with the month before the month in which such individual attains the age of 70".

(b) Extension of Age Discrimination Provisions.—

(1) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)) is amended by striking out "through 69" and inserting in lieu thereof "or older" each place it appears.

(2) Section 12(a) of such Act (29 U.S.C. 631(a)) is amended by inserting "(except the provisions of section 4(g))" after "Act".

(3) Section 4 of such Act (29 U.S.C. 623) is amended by redesignating the second subsection (g), added by section 802 of the Older Americans Act Amendments of 1984, as subsection (h). 98 Stat. 1792.

(c) Conforming Amendments.—

(1) Special enrollment period.—Paragraph (3) of section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)(3)) is amended to read as follows:

"(3) The special enrollment period referred to in paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending seven months later.". 42 USC 1395y.

(2) Effective date of enrollment.—Subsection (e) of section 1838 of the Social Security Act (42 U.S.C. 1395q) is amended to read as follows:

"(e) Notwithstanding subsection (a), in the case of an individual who enrolls during a special enrollment period pursuant to section 1837(i)(3)— 42 USC 1395p.

"(1) in the first month of the special enrollment period, the coverage period shall begin on the first day of that month, or

"(2) in a month after the first month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls."

(d) Effective Dates.—(1) The amendments made by subsection (a) shall apply with respect to items and services furnished on or after May 1, 1986. 42 USC 1395y note.

(2) The amendments made by subsections (b) and (c) shall become effective on May 1, 1986. 42 USC 1395p note.

SEC. 9202. PAYMENTS TO HOSPITALS FOR DIRECT COSTS OF MEDICAL EDUCATION.

(a) Medicare Payment Methodology.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(h) Payments for Direct Graduate Medical Education Costs.—

"(1) Substitution of special payment rules.—Notwithstanding section 1861(v), instead of any amounts that are otherwise payable under this title with respect to the reasonable costs of 42 USC 1395x.

hospitals for direct graduate medical education costs, the Secretary shall provide for payments for such costs in accordance with paragraph (3) of this subsection. In providing for such payments, the Secretary shall provide for an allocation of such payments between part A and part B (and the trust funds established under the respective parts) as reasonably reflects the proportion of direct graduate medical education costs of hospitals associated with the provision of services under each respective part.

100 STAT. 172

"(2) DETERMINATION OF HOSPITAL-SPECIFIC APPROVED FTE RESIDENT AMOUNTS.—The Secretary shall determine, for each hospital with an approved medical residency training program, an approved FTE resident amount for each cost reporting period beginning on or after July 1, 1985, as follows:

"(A) DETERMINING ALLOWABLE AVERAGE COST PER FTE RESIDENT IN A HOSPITAL'S BASE PERIOD.—The Secretary shall determine, for the hospital's cost reporting period that began during fiscal year 1984, the average amount recognized as reasonable under this title for direct graduate medical education costs of the hospital for each full-time-equivalent resident.

"(B) UPDATING TO THE FIRST COST REPORTING PERIOD.—

"(i) IN GENERAL.—The Secretary shall update each average amount determined under subparagraph (A) by the percentage increase in the consumer price index during the 12-month cost reporting period described in such subparagraph.

"(ii) EXCEPTION.—The Secretary shall not perform an update under clause (i) in the case of a hospital if the hospital's reporting period, described in subparagraph (A), began on or after July 1, 1984, and before October 1, 1984.

"(C) AMOUNT FOR FIRST COST REPORTING PERIOD.—For the first cost reporting period of the hospital beginning on or after July 1, 1985, the approved FTE resident amount for the hospital is equal to the amount determined under paragraph (B) increased by 1 percent.

"(D) AMOUNT FOR SUBSEQUENT COST REPORTING PERIODS.—For each subsequent cost reporting period, the approved FTE resident amount for the hospital is equal to the amount determined under this paragraph for the previous cost reporting period updated, through the midpoint of the period, by projecting the estimated percentage change in the consumer price index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous under- or over-estimations under this subparagraph in the projected percentage change in the consumer price index.

"(E) TREATMENT OF CERTAIN HOSPITALS.—In the case of a hospital that did not have an approved medical residency training program or was not participating in the program under this title for a cost reporting period beginning during fiscal year 1984, the Secretary shall, for the first such period for which it has such a residency training program and is participating under this title, provide for such approved FTE resident amount as the Secretary determines to be appropriate, based on approved FTE resident amounts for comparable programs.

"(3) HOSPITAL PAYMENT AMOUNT PER RESIDENT.—

"(A) IN GENERAL.—The payment amount, for a hospital cost reporting period beginning on or after July 1, 1985, is equal to the product of—

"(i) the aggregate approved amount (as defined in subparagraph (B)) for that period, and "(ii) the hospital's medicare patient load (as defined in subparagraph (C)) for that period. 100 STAT. 173

"(B) Aggregate approved amount.—As used in subparagraph (A), the term 'aggregate approved amount' means, for a hospital cost reporting period, the product of—

"(i) the hospital's approved FTE resident amount (determined under paragraph (2)) for that period, and

"(ii) the weighted average number of full-time-equivalent residents (as determined under paragraph (4)) in the hospital's approved medical residency training programs in that period.

"(C) Medicare patient load.—As used in subparagraph (A), the term 'medicare patient load' means, with respect to a hospital's cost reporting period, the fraction of the total number of inpatient-bed-days (as established by the Secretary) during the period which are attributable to patients with respect to whom payment may be made under part A.

"(4) Determination of full-time-equivalent residents.—

"(A) Rules.—The Secretary shall establish rules consistent with this paragraph for the computation of the number of full-time-equivalent residents in an approved medical residency training program.

"(B) Adjustment for part-year or part-time residents.—Such rules shall take into account individuals who serve as residents for only a portion of a period with a hospital or simultaneously with more than one hospital.

"(C) Weighting factors for certain residents.—Subject to subparagraph (E), such rules shall provide, in calculating the number of full-time-equivalent residents in an approved residency program—

"(i) before July 1, 1986, for each resident the weighting factor is 1.00,

"(ii) on or after July 1, 1986, for a resident who is in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is 1.00,

"(iii) on or after July 1, 1986, and before July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .75, and

"(iv) on or after July 1, 1987, for a resident who is not in the resident's initial residency period (as defined in paragraph (5)(F)), the weighting factor is .50.

"(E) Foreign medical graduates required to pass FMGEMS examination.—

"(i) In general.—Except as provided in clause (ii), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident on or after July 1, 1986, unless—

"(I) the individual has passed the FMGEMS examination (as defined in paragraph (5)(E)), or

"(II) the individual has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates.

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"(ii) Transition for current FMGs.—On or after July 1, 1986, in the case of a foreign medical graduate who—

"(I) has served as a resident before July 1, 1986, and is serving as a resident after that date, but

"(II) has not passed the FMGEMS examination or a previous examination of the Educational Commission for Foreign Medical Graduates before July 1, 1986, the individual shall be counted as a resident at a rate equal to one-half of the rate at which the individual would otherwise be counted.

"(5) Definitions and special rules.—As used in this subsection:

"(A) Approved medical residency training program.—The term 'approved medical residency training program' means a residency or other postgraduate medical training program participation in which may be counted toward certification in a specialty or subspecialty and includes formal postgraduate training programs in geriatric medicine approved by the Secretary.

"(B) Consumer price index.—As used in this paragraph, the term 'consumer price index' refers to the Consumer Price Index for All Urban Consumers (United States city average), as published by the Secretary of Commerce.

"(C) Direct graduate medical education costs.—The term 'direct graduate medical education costs' means direct costs of approved educational activities for approved medical residency training programs.

"(D) Foreign medical graduate.—The term 'foreign medical graduate' means a resident who is not a graduate of—

"(i) a school of medicine accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (or approved by such Committee as meeting the standards necessary for such accreditation),

"(ii) a school of osteopathy accredited by the American Osteopathic Association, or approved by such Association as meeting the standards necessary for such accreditation, or

"(iii) a school of dentistry or podiatry which is accredited (or meets the standards for accreditation) by an organization recognized by the Secretary for such purpose.

"(E) FMGEMS examination.—The term 'FMGEMS examination' means parts I and II of the Foreign Medical Graduate Examination in the Medical Sciences recognized by the Secretary for this purpose.

"(F) Initial residency period.—The term 'initial residency period' means the period of board eligibility plus one year, except that—

"(i) except as provided in clause (ii), in no case shall the initial period of residency exceed an aggregate period of formal training of more than five years for any individual, and

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"(ii) a period, of not more than two years, during which an individual is in a geriatric residency or fellowship program which meets such criteria as the Secretary may establish, shall be treated as part of the initial residency period, but shall not be counted against any limitation on the initial residency period.

The initial residency period shall be determined, with respect to a resident, as of the time the resident enters the residency training program.

"(G) Period of board eligibility.—

"(i) General rule.—Subject to clauses (ii) and (iii), the term 'period of board eligibility' means, for a resident, the minimum number of years of formal training necessary to satisfy the requirements for initial board eligibility in the particular specialty for which the resident is training.

"(ii) Application of 1985–1986 directory.—Except as provided in clause (iii), the period of board eligibility shall be such period specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education.

"(iii) CHANGES IN PERIOD OF BOARD ELIGIBILITY.—On or after July 1, 1989, if the Accreditation Council on Graduate Medical Education, in its Directory of Residency Training Programs—

"(I) increases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, above the period specified in its 1985-1986 Directory, the Secretary may increase the period of board eligibility for that specialty, but not to exceed the period of board eligibility specified in that later Directory, or

"(II) decreases the minimum number of years of formal training necessary to satisfy the requirements for a specialty, below the period specified in its 1985-1986 Directory, the Secretary may decrease the period of board eligibility for that specialty, but not below the period of board eligibility specified in that later Directory.

"(H) RESIDENT.—The term 'resident' includes an intern or other participant in an approved medical residency training program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to hospital cost reporting periods beginning on or after July 1, 1985.

42 USC 1395ww note.

(c) STUDIES BY SECRETARY.—(1) The Secretary of Health and Human Services shall conduct a study with respect to approved educational activities relating to nursing and other health professions for which reimbursement is made to hospitals under title XVIII of the Social Security Act. The study shall address—

42 USC 1395ww note.

42 USC 1395c.

(A) the types and numbers of such programs, and number of students supported or trained under each program;

(B) the fiscal and administrative relationships between the hospitals involved and the schools with which the programs and students are affiliated; and

(C) the types and amounts of expenses of such programs for which reimbursement is made, and the financial and other contributions which accrue to the hospital as a consequence of having such programs.

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The Secretary shall report the results of such study to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives prior to December 31, 1987.

(2) The Secretary shall conduct a separate study of the advisability of continuing or terminating the exception under section 1886(h)(5)(F)(ii) of the Social Security Act for geriatric residencies and fellowships, and of expanding such exception to cover other educational activities, particularly those which are necessary to meet the projected health care needs of Medicare beneficiaries. Such study shall also examine the adequacy of the supply of faculty in the field of geriatrics. The Secretary shall report the results of such study to the committees described in paragraph (1) prior to July 1, 1990.

Ante, p. 171.

(d) GAO STUDY.—(1) The Comptroller General shall conduct a study of the variation in the amounts of payments made under title XVIII of the Social Security Act with respect to patients in different teaching hospital settings and in the amounts of such payments which are made with respect to patients who are treated in teaching and nonteaching hospital settings. Such study shall identify the components of such payments (including payments with respect to inpatient hospital services, physicians' services, and capital costs, and, in the case of teaching hospital patients, payments with respect to direct and indirect teaching costs) and shall account, to the extent

42 USC 1395ww note.
42 USC 1395c.

feasible, for any variations in the amounts of the payment components between teaching and nonteaching settings and among different teaching settings.

(2) In carrying out such study, the Comptroller General may utilize a sample of hospital patients and any other data sources which he deems appropriate, and shall, to the extent feasible, control for differences in severity of illness levels, area wage levels, levels of physician reasonable charges for like services and procedures, and for other factors which could affect the comparability of patients and of payments between teaching and nonteaching settings and among teaching settings. The information obtained in the study shall be coordinated with the information obtained in conducting the study of teaching physicians' services under section 2307(c) of the Deficit Reduction Act of 1984. 98 Stat. 1073.

(3) The Comptroller General shall report the results of the study to the committees described in subsection (c)(1) prior to December 31, 1987.

42 USC 1395ww note. (e) REPORT ON UNIFORMITY OF APPROVED FTE RESIDENT AMOUNTS.—The Secretary of Health and Human Services shall report to the committees described in subsection (c)(1), not later than December 31, 1987, on whether section 1886(h) of the Social Security Act should be revised to provide for greater uniformity in the approved FTE resident amounts established under paragraph (2) of that section, and, if so, how such revisions should be implemented.

42 USC 1395ww note. (f) STUDY ON FOREIGN MEDICAL GRADUATES.—The Secretary of Health and Human Services shall study, and report to the committees described in subsection (c)(1), not later than December 31, 1987, respecting the use of physicians who are foreign medical graduates (within the meaning of section 1886(h)(5)(D) of the Social Security Act) in the provision of health care services (particularly inpatient and outpatient hospital services) to medicare beneficiaries. Such study shall evaluate—

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(1) the types of services provided;

(2) the cost of providing such services, relative to the cost of other physicians providing the services or other approaches to providing the services;

(3) any deficiencies in the quality of the services provided, and methods of assuring the quality of such services; and

(4) the impact on costs of and access to services if medicare payment for hospitals' costs of graduate medical education of foreign medical graduates were phased out.

42 USC 1395ww note. (g) ESTABLISHING PHYSICIAN IDENTIFIER SYSTEM.—The Secretary of Health and Human Services shall establish a system, for implementation not later than July 1, 1987, which provides for a unique identifier for each physician who furnishes services for which payment may be made under title XVIII of the Social Security Act. 42 USC 1395c.

42 USC 1395ww note. 44 USC 3501 *et seq.* (h) PAPERWORK REDUCTION.—Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this section and the amendments made by this section.

(i) PROHIBITING A LIMIT ON INCREASES ON DIRECT MEDICAL EDUCATION COSTS.—(1) Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)), as amended by section 9107(b) of this title, is further amended by adding at the end the following new subparagraph:

"(Q) Except as otherwise explicitly authorized, the Secretary is not authorized to limit the rate of increase on allowable costs of approved medical educational activities.".

42 USC 1395x note. (2) The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1985.

42 USC 1395ww note. *Ante*, p. 161. (j) SPECIAL TREATMENT OF STATES FORMERLY UNDER WAIVER.—In the case of a hospital in a State that has had a waiver approved under section 1886(c) of the Social Security Act, for cost reporting periods beginning on or after January 1, 1986, if the waiver is terminated—

(1) the Secretary of Health and Human Services shall permit the hospital to change the method by which it allocates administrative and general costs to the direct medical education cost centers to the method specified in the medicare cost report;

(2) the Secretary may make appropriate adjustments in the regional adjusted DRG prospective payment rate (for the region in which the State is located), based on the assumption that all teaching hospitals in the State use the medicare cost report; and

(3) the Secretary shall adjust the hospital-specific portion of payment under section 1886(d) of such Act for any such hospital that actually chooses to use the medicare cost report.

The Secretary shall implement this subsection based on the best available data.

SEC. 9204. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.

42 USC 1395ww note.

(a) MORATORIUM.—Prior to January 1, 1987, the Secretary of Health and Human Services shall not conduct any demonstration projects relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act. The Secretary may contract for the design of, and site selection for, such demonstration projects.

Contracts. 42 USC 1395c.

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(b) COOPERATION IN STUDY.—The Secretary of Health and Human Services and the Comptroller General shall assist representatives of clinical laboratories in the industry's conduct of a study to determine whether methods exist which are better than competitive bidding for purposes of utilizing competitive market forces in setting payment levels for laboratory services under title XVIII of the Social Security Act. If such a study is conducted by the clinical laboratory industry, the Secretary and the Comptroller General shall comment on such study and submit such comments and the study to the Senate Committee on Finance and the House Committees on Ways and Means and Energy and Commerce.

42 USC 1395c.

SEC. 9205. HOME HEALTH WAIVER OF LIABILITY.

42 USC 1395y note.

The Secretary of Health and Human Services shall, for purposes of determining whether payments to a home health agency should be denied pursuant to section 1862(a)(1)(A) of the Social Security Act, apply a presumption of compliance (2.5 percent) in the same manner as under the regulations in effect as of July 1, 1985. Such presumption shall apply until 12 months after the date on which ten regional intermediaries have commenced operations to service home health agencies, as required under section 1816(e)(4) of the Social Security Act.

42 USC 1395y.

42 USC 1395h.

Subpart B—Other Provisions

SEC. 9211. PROVISIONS RELATING TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

(a) FINANCIAL RESPONSIBILITY FOR PATIENTS HOSPITALIZED ON THE EFFECTIVE DATE OF AN ENROLLMENT OR DISENROLLMENT.—(1) Subsection (c) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new paragraph:

"(7) A risk-sharing contract under this section shall provide that in the case of an individual who is receiving inpatient hospital services from a subsection (d) hospital (as defined in section 1886(d)(1)(B)) as of the effective date of the individual's—

Contract.

42 USC 1395ww.

"(A) enrollment with an eligible organization under this section—

"(i) payment for such services until the date of the individual's discharge shall be made under this title as if the individual were not enrolled with the organization,

"(ii) the organization shall not be financially responsible for payment for such services until the date after the date of the individual's discharge, and "(iii) the organization shall nonetheless be paid the full amount otherwise payable to the organization under this section; or

"(B) termination of enrollment with an eligible organization under this section—

"(i) the organization shall be financially responsible for payment for such services after such date and until the date of the individual's discharge,

"(ii) payment for such services during the stay shall not be made under section 1886(d), and

"(iii) the organization shall not receive any payment with respect to the individual under this section during the period the individual is not enrolled.".

(2) Subsection (a)(3) of such section is amended by striking out "Payments" and inserting in lieu thereof "Subject to subsection (c)(7), payments".

(3) Subsection (a)(6) of such section is amended by striking out "If" and inserting in lieu thereof "Subject to subsection (c)(7), if".

(b) DISENROLLMENTS.—

(1) EFFECTIVE DATE.—Subsection (c)(3)(B) of such section is amended by striking out "a full calendar month after" and inserting in lieu thereof "the date on which".

(2) INFORMATION.—Such subsection is further amended by adding at the end the following: "In the case of an individual's termination of enrollment, the organization shall provide the individual with a copy of the written request for termination of enrollment and a written explanation of the period (ending on the effective date of the termination) during which the individual continues to be enrolled with the organization and may not receive benefits under this title other than through the organization.".

Prohibitions.

(c) REVIEW OF MARKETING MATERIAL.—Subsection (c)(3)(C) of such section is amended by adding at the end the following: "No brochures, application forms, or other promotional or informational material may be distributed by an organization to (or for the use of) individuals eligible to enroll with the organization under this section unless (i) at least 45 days before its distribution, the organization has submitted the material to the Secretary for review and (ii) the Secretary has not disapproved the distribution of the material. The Secretary shall review all such material submitted and shall disapprove such material if the Secretary determines, in the Secretary's discretion, that the material is materially inaccurate or misleading or otherwise makes a material misrepresentation.".

(d) PROMPT PUBLICATION OF AAPCC.—Subsection (a)(1)(A) of such section is amended by inserting after "The Secretary shall annually determine" the following: ", and shall publish not later than September 7 before the calendar year concerned".

42 USC 1395mm note.

(e) EFFECTIVE DATES.—

(1) FINANCIAL RESPONSIBILITY.—The amendments made by subsection (a) shall apply to enrollments and disenrollments that become effective on or after the date of the enactment of this Act.

(2) DISENROLLMENTS.—The amendments made by subsection (b) shall apply to requests for termination of enrollment submitted on or after May 1, 1986.

(3) MATERIAL REVIEW.—(A) The amendment made by subsection (c) shall not apply to material which has been distributed before July 1, 1986.

(B) Such amendment also shall not apply so as to require the submission of material which is distributed before July 1, 1986.

(C) Such amendment shall also not apply to material which the Secretary determines has been prepared before the date of the enactment of this Act and for which a commitment for distribution has been made, if the application of such amendment would constitute a hardship for the organization involved.

(4) **Publication.**—The amendment made by subsection (d) shall apply to determinations of per capita rates of payment for 1987 and subsequent years.

(5) **Necessary modification of contracts.**—The Secretary of Health and Human Services shall provide for such changes in the risk-sharing contracts which have been entered into under section 1876 of the Social Security Act as may be necessary to conform to the requirements imposed by the amendments made by this section on a timely basis.

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42 USC 1395 mm.

SEC. 9213. REMOVAL OF PROHIBITION ON COMMENTS BY MEDICARE AND SOCIAL SECURITY ACTUARIES RELATING TO ECONOMIC ASSUMPTIONS.

(a) **Federal Old-Age and Disability Insurance Trust Fund.**—Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by striking out ": *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report, and shall" and inserting in lieu thereof ". Such report shall".

(b) **Medicare Trust Funds.**—Sections 1817(b) and 1841(b) of such Act (42 U.S.C. 1395i(b), 1395t(b)) are each amended by striking out ": *Provided*, That the certification shall not refer to economic assumptions underlying the Trustee's report".

(c) **Effective Date.**—The amendments made by this section shall become effective on the date of the enactment of this Act.

42 USC 401 note.

SEC. 9214. LIMITATION ON MERGER OF END STAGE RENAL DISEASE NETWORKS.

42 USC 1395rr note.

42 USC 1395rr.

The Secretary of Health and Human Services shall maintain renal disease network organizations as authorized under section 1881(c) of the Social Security Act, and may not merge the network organizations into other organizations or entities. The Secretary may consolidate such network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

SEC. 9215. EXTENSION OF CERTAIN MEDICARE MUNICIPAL HEALTH SERVICES DEMONSTRATION PROJECTS.

Maryland.
Ohio.
Wisconsin.
California.
42 USC 1395b-1 note.
42 USC 1395b-1.

The Secretary of Health and Human Services shall extend, for a period of three additional years, approval of four municipal health services demonstration projects (located in Baltimore, Cincinnati, Milwaukee, and San Jose) authorized under section 402(a) of the Social Security Amendments of 1967.

SEC. 9216. AUDIT AND MEDICAL CLAIMS REVIEW.

(a) **Increase in Activities for Fiscal Years 1986, 1987, and 1988.**—Section 118 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 355) is amended—

42 USC 1395h note.

(1) by striking out "for fiscal years 1983, 1984, and 1985",

(2) by striking out "such fiscal years" and inserting in lieu thereof "fiscal years 1983, 1984, and 1985, and $105,000,000 for each of fiscal years 1986, 1987, and 1988", and

(3) by striking out "the purpose of carrying out provider cost audits and reviews of medical necessity" and inserting in lieu thereof "purposes of carrying out provider cost audits, of reviewing medical necessity, and of recovering third-party liability payments".

(b) **Effective Date.**—The amendments made by subsection (a) shall apply to fiscal years beginning with fiscal year 1986.

42 USC 1395h note.

SEC. 9217. LIVER TRANSPLANTS.

(a) The Senate finds that:

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(1) There have been more than 600 liver transplants since 1963 and the one year survival rate at qualified institutions is now greater than 70 percent.

(2) There are 4,000 to 4,700 potential candidates in the United States each year who require a liver transplant, but only a small percentage would be eligible for Medicare coverage.

(3) There are currently individuals on waiting lists for liver transplants who will die without Medicare coverage.

(4) After extensive review and consideration of all the available data, an National Institutes of Health expert panel concluded liver transplantation is "a therapeutic modality for end-stage liver disease that deserves broader application" in a limited number of centers where they can be carried out under optimal conditions.

(5) National Institutes of Health further recommended that liver transplants be done in individuals under 18 years of age.

(6) The CHAMPUS program, after considering all relevant data, determined that there was no scientific basis for limiting liver transplants to children under 18 years of age.

(7) The Department of Health and Human Services has determined that liver transplantation is no longer an experimental procedure only for children under 18.

(b) Based upon the above findings, it is the sense of the Senate that:

42 USC 1395c. (1) For the purposes of title XVIII of the Social Security Act, the Secretary immediately reconsider the Medicare liver transplant coverage decision and implement a policy under which a liver transplant shall not be considered to be an experimental procedure for Medicare beneficiaries solely because an individual is over 18 years of age.

(2) A liver transplant shall be covered under such title when reasonable and medically necessary.

(3) The Secretary shall place appropriate limiting criteria on coverage, including those relating to the patient's condition, the disease state, and the institution providing the care, so as to ensure the highest quality of medical care demonstrated to be consistent with successful outcomes.

SEC. 9218. STUDIES RELATING TO PHYSICAL THERAPISTS AND OTHER PROFESSIONALS.

(a) SUPERVISION OF HOME HEALTH SERVICES.—The Secretary of Health and Human Services shall conduct a study of the advisability of changing the requirements of title XVIII of the Social Security Act to allow home health services to be provided under the supervision of a physical therapist or other health care professional, rather than requiring the supervision of a physician or registered nurse.

(b) OFFICE REQUIREMENT.—The Secretary of Health and Human Services shall conduct a study on the advisability of deleting the requirement under such title that a physical therapist must have an office equipped with specified equipment, even if such therapist provides all such services in patients' homes.

(c) REPORTS.—The Secretary shall report the results of the studies to the Congress prior to October 1, 1986.

SEC. 9219. TECHNICAL CORRECTIONS.

100 STAT. 182 (a) WORKING AGED TECHNICAL CORRECTIONS.—

(1) PREMIUM PENALTY.—The second sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), as amended by section 2338(a) of the Deficit Reduction Act of 1984, is amended by striking out "months in which" and all that follows through "clause (iv) of such section" and inserting in lieu thereof "months during which the individual has attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a group health plan described in section 1862(b)(3)(A)(iv)". 42 USC 1395y.

(2) **Special enrollment periods.**—Section 1837(i) of the Social Security Act (42 U.S.C. 1395p), as added by section 2338(b) of the Deficit Reduction Act of 1984, is amended—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) has attained the age of 65,"; and

(B) in paragraph (2), by redesignating subparagraph (C) as subparagraph (D) and by amending subparagraphs (A) and (B) to read as follows:

"(A) has attained the age of 65;

"(B)(i) has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or (ii) is an individual described in paragraph (1)(B);

"(C) has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment; and".

(3) **Effective dates.**—

42 USC 1395r note.

(A) The amendment made by paragraph (1) shall apply to months beginning with January 1983 for premiums for months beginning with the first month that begins more than 30 days after the date of the enactment of this Act.

42 USC 1395p note.

(B)(i) The amendments made by paragraph (2) shall apply to enrollments in months beginning with the first effective month (as defined in clause (ii)), except that in the case of any individual who would have a special enrollment period under section 1837(i) of the Social Security Act that would have begun after November 1984 and before the first effective month, the period shall be deemed to begin with the first day of the first effective month.

(ii) For purposes of clause (i), the term "first effective month" means the first month that begins more than 90 days after the date of the enactment of this Act.

(b) **Miscellaneous Technical Corrections.**—

(1)(A) Subclause (III) of section 1842(b)(7)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of the Deficit Reduction Act of 1984, is amended by indenting it two additional ems to the right so as to align its left margin with the left margins of subclauses (I) and (II) of that section.

(B) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of the Deficit Reduction Act of 1984, is amended by striking out "at his home" and inserting in lieu thereof "as his home".

(C) Section 1888(b) of the Social Security Act (42 U.S.C. 1395yy(b)), as added by section 2319(b) of the Deficit Reduction 100 STAT. 183
Act of 1984, is amended by striking out "nothwithstanding" and inserting in lieu thereof "notwithstanding".

42 USC 1395u note.

(D) The amendments made by this paragraph shall be effective as if they had been originally included in the Deficit Reduction Act of 1984.

(2)(A) Clause (iii) of section 1842(b)(7)(B) of the Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as added by section 3(b)(6) of Public Law 98-617, is amended by moving its alignment two additional ems to the left so as to align its left margin with the left margins of clauses (i) and (ii) of that section.

42 USC 1395u note.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in Public Law 98-617.

(3)(A) Section 1861(v)(1)(G)(i) of the Social Security Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by section 602(d)(1) of the Social Security Amendments of 1983, is amended by inserting, in the matter after subclause (III), "on the basis of" after "(during such period)".

42 USC 1395x note.

(B) The amendment made by subparagraph (A) shall be effective as if it had been originally included in the Social Security Amendments of 1983.

SEC. 9220. EXTENSION OF ON LOK WAIVER.

(a) **Continued Approval.**—

42 USC 1395b-1 and note, 1395*ll*. 42 USC 1395b-1. 42 USC 1395b-1 note. 42 USC 1395c. 42 USC 1315.

(1) **Medicare waivers.**—Notwithstanding any limitations contained in section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services shall continue approval of the risk-sharing application (described in section 603(c)(1) of Public Law 98-21) for waivers of certain requirements of title XVIII of the Social Security Act after the end of the period described in that section.

42 USC 1396.

(2) **Medicaid waivers.**—Notwithstanding any limitations contained in section 1115 of the Social Security Act, the Secretary shall approve any application of the Department of Health Services, State of California, for a waiver of requirements of title XIX of such Act in order to continue carrying out the demonstration project referred to in section 603(c)(2) of Public Law 98-21 after the end of the period described in that section.

(b) **Terms, Conditions, and Period of Approval.**—The Secretary's approval of an application (or renewal of an application) under this section—

(1) shall be on the same terms and conditions as applied with respect to the corresponding application under section 603(c) of Public Law 98-21 as of July 1, 1985, except that requirements relating to collection and evaluation of information for demonstration purposes (and not for operational purposes) shall not apply; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with the terms and conditions described in paragraph (1).

SEC. 9221. CONTINUATION OF "ACCESS: MEDICARE" DEMONSTRATION PROJECT.

42 USC 1395c, 1396.

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42 USC 1395b-1 and note, 1395*ll*. 42 USC 1395b-1.

(a) **Approval of Application.**—The Secretary of Health and Human Services shall approve any application for a waiver of any requirement of titles XVIII and XIX of the Social Security Act necessary to provide for the continuation, through September 30, 1986, of the "Access: Medicare" demonstration project carried out pursuant to section 222 of the Social Security Amendments of 1972 and section 402(a) of the Social Security Amendments of 1967 by Monroe County Long Term Care Program, Inc.

(b) **Terms and Conditions.**—The Secretary's approval of an application (or renewal of an application) under subsection (a) shall be on the same terms and conditions as applied to the demonstration project as in effect on August 31, 1985.

PART 3—PROVISIONS RELATING TO PART B OF MEDICARE

Subpart A—Payment-Related Provisions

SEC. 9301. MEDICARE PHYSICIAN PAYMENT PROVISIONS.

42 USC 1395ww note.

(a) **Extension of Current Freeze on Payment Rates through April 30, 1986.**—Section 5(c) of the Emergency Extension Act of 1985 (Public Law 99-107), as amended by section 9101(a) of this title, is further amended by adding at the end the following new paragraph:

"(2) **Physician payments.**—For purposes of subsection (b), the term 'extension period' means the period beginning on October 1, 1985, and ending on April 30, 1986."

(b) **Extension of Certain Provisions Through December 31, 1986.**—

(1) **Extension.**—Section 1842(b)(4) of the Social Security Act (42 U.S.C. 1395u(b)(4)) is amended—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(4)(A)", and

(ii) by adding at the end the following new clauses:

"(ii)(I) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 8-month period beginning May 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning July 1, 1983.

"(II) In determining the prevailing charge levels under the fourth sentence of paragraph (3) for physicians' services furnished during the 8-month period beginning May 1, 1986, by a physician who is a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall permit an additional one percentage point increase in the increase otherwise permitted under that sentence.

"(iii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during a 12-month period beginning on or after January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services, the Secretary shall not set any level higher than the same level as was set for services furnished during the previous calendar year (without regard to clause (ii)(II)) for physicians who were participating physicians during that year.";

(B) in subparagraph (B)—

(i) by inserting "(i)" after "(B)", and

(ii) by adding at the end the following new clause: 100 STAT. 185

"(ii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 8-month period beginning May 1, 1986, by a physician who is not a participating physician (as defined in subsection (h)(1)) at the time of furnishing the services—

"(I) if the physician was not a participating physician at any time during the 12-month period beginning on October 1, 1984, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning July 1, 1983, and

"(II) if the physician was a participating physician at any time during the 12-month period beginning on October 1, 1984, the physician's customary charges shall be determined based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985.";

(C) in subparagraph (C)—

(i) by inserting "(i)" after "(C)",

(ii) by striking out "(A)" and inserting in lieu thereof "(A)(i)" each place it appears, and

(iii) by adding at the end the following new clause:

"(ii) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the periods beginning after December 31, 1986, by a physician who was not a participating physician on that date, the Secretary shall treat the level as set under subparagraph (A)(ii) as having fully provided for the economic changes which would have been taken into account but for the limitations contained in subparagraph (A)(ii)."; and

(D) in subparagraph (D)—

(i) by striking out "In determining" and all that follows through "subsection (h)(1))" and insert in lieu thereof "(i) In determining the customary charges for physicians' services furnished during the 8-month period beginning May 1, 1986, or the 12-month period beginning January 1, 1987, by a physician who was not a participating physician (as defined in subsection (h)(1)) on September 30, 1985", and

(ii) by adding at the end the following new clauses:

"(ii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, by a physician who is not a participating physician (as defined in subsection (h)(1)) on April 30, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 7-month period beginning on October 1, 1985, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.

"(iii) In determining the customary charges for physicians' services furnished during the 12-month period beginning January 1, 1987, or January 1, 1988, by a physician who is not a participating physician (as defined in subsection (h)(1)) on December 31, 1986, the Secretary shall not recognize increases in actual charges for services furnished during the 8-month period beginning on May 1, 1986, above the level of the physician's actual charges billed during the 3-month period ending on June 30, 1984.".

(2) CONTINUED ENFORCEMENT.—The first sentence of section 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is amended to read as follows: "In the case of a physician who is not a participating physician for items and services furnished during a portion of the 30-month period beginning July 1, 1984, the Secretary shall monitor the physician's actual charges to individuals enrolled under this part for physicians' services during that portion of that period.".

42 USC 1395u note.

(3) PERIOD FOR ENTERING PARTICIPATION AGREEMENTS.—The Secretary of Health and Human Services shall provide, during the month of April 1986, that physicians and suppliers may enter into an agreement under section 1842(h)(1) of the Social Security Act for the 8-month period beginning May 1, 1986, or terminate such an agreement previously entered into for fiscal year 1986. In the case of a physician or supplier who entered into such an agreement for fiscal year 1986, the physician or supplier shall be deemed to have entered into such agreement for such 8-month period and for each succeeding year unless the physician or supplier terminates such agreement before the beginning of the respective period. At the beginning of such 8-month period, the Secretary shall publish a new directory (described in section 1842(h)(4) of that Act, as redesignated by subsection (c)(3)(D) of this section) of participating physicians and suppliers.

42 USC 1395u.

42 USC 1395u note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after May 1, 1986.

(c) INCENTIVES FOR PARTICIPATING PHYSICIAN PROGRAM.—

(1) 15-MONTH EXTENSION OF TRANSFER OF FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1073) is amended—

42 USC 1395u.

(A) by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986",

(B) by striking out "the amendments made by this section" and inserting in lieu thereof "subsections (b)(4), (h), and (j) of section 1842 of the Social Security Act",

(C) by striking out "and" before "not less",

(D) by inserting before the period at the end the following: ", and not less than $18,000,000 for fiscal year 1986", and

(E) by adding at the end the following new sentences: "A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program. Such funds for fiscal year 1986 are available for obligation until December 31, 1986.".

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out "a directory" and inserting in lieu thereof "directories (for appropriate local geographic areas)", and

(ii) by inserting "for that area" before "for that fiscal year";

(B) in the second sentence of paragraph (2), by striking out "The directory" and inserting in lieu thereof "Each directory";

(C) in paragraph (3)—

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(i) by striking out "directory" the first place it appears and inserting in lieu thereof "the directories", and

(ii) by striking out "directory" the second place it appears and inserting in lieu thereof "the appropriate area directory or directories"; and

(D) in paragraph (4)—

(i) by striking out "directory" and inserting in lieu thereof "the directories", and

(ii) by adding at the end the following: "The Secretary shall provide that each appropriate area directory is sent to each participating physician located in that area.".

(3) ELIMINATION OF PHYSICIAN ASSIGNMENT RATE LIST.—Section 1842(i) of such Act is further amended— 42 USC 1395u.

(A) by striking out "(i)(1)" and all that follows through the end of paragraph (1),

(B) by striking out "subsection (h)(1)" in paragraph (2) and inserting in lieu thereof "paragraph (1)",

(C) by striking out "list and" each place it appears in paragraphs (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

"(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include— 42 USC 1395*l*.

"(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

"(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which an individual enrolled under this part may obtain information on participating physicians and suppliers.

"(8) For purposes of this title, a claim is considered to be paid on an 'assignment-related basis' if the claim is paid on the basis of an assignment described in subsection (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under the procedure described in section 1870(f)(1).". 42 USC 1395gg.

42 USC 1395u note.

(5) Effective date.—Section 1842(b)(7) of the Social Security Act, as added by paragraph (4) of this subsection, shall apply to explanations of benefits provided on or after such date (not later than October 1, 1986) as the Secretary of Health and Human Services shall specify.

(d) Changing Customary and Prevailing Charge Updates for Physician Services and Other Part B Services From October to January.—

(1) Payment updates.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended—

(A) in subparagraph (F), by striking out "(ending on September 30)";

(B) in the third sentence, by striking out "March 31" and all that follows through "of each year)" and inserting in lieu thereof "June 30 last preceding the start of the calendar year"; and

(C) in the eighth sentence, by striking out "the twelve-month period beginning on October 1 in".

42 USC 1395u.

(2) Participation agreements.—Section 1842(h)(1) of such Act is amended—

(A) in the second sentence—

(i) by striking out "before October 1" and inserting in lieu thereof "before the beginning",

(ii) by striking out "on the basis of an assignment" and all that follows through "1870(f)(1)" and inserting in lieu thereof "on an assignment-related basis", and

(iii) by striking out "the 12-month period beginning on October 1 of"; and

(B) in the third sentence—

(i) by striking out "after October 1" and inserting in lieu thereof "after the beginning", and

(ii) by striking out "12-month period beginning on such October 1" and inserting in lieu thereof "year".

(3) Directories.—The first sentence of section 1842(i)(2) of such Act (which is redesignated as section 1842(h)(4) by subsection (c)(3)(D)), is further amended by striking out "fiscal" each place it appears.

42 USC 1395u note.

(4) Effective date.—The amendments made by this subsection shall apply to items and services furnished on or after October 1, 1986.

42 USC 1395u note.

42 USC 1395j.

(5) Transition.—Notwithstanding any other provision of law, for purposes of making payment under part B of title XVIII of the Social Security Act, customary and prevailing charges (and the lowest charges determined under the sixth sentence of section 1842(b)(3) of such Act) for items and services furnished during the period beginning on October 1, 1986, and ending on December 31, 1986, shall be determined on the same basis as for items and services furnished on September 30, 1986.

SEC. 9303. PAYMENT FOR CLINICAL LABORATORY SERVICES.

(a) Changing Month of Annual Update From July to January.—

42 USC 1395*l*.

(1) In general.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(A) by striking out "June 30, 1987" and "July 1, 1987" and inserting in lieu thereof "December 31, 1987" and "January 1, 1988", respectively, each place either appears, and

(B) in paragraph (2), by inserting "(to become effective on January 1 of each year)" after "adjusted annually".

42 USC 1395*l* note.

(2) Effective date.—The amendments made by paragraph (1) shall apply to clinical laboratory diagnostic tests performed on or after July 1, 1986.

42 USC 1395*l* note.

(3) Transition.—The Secretary of Health and Human Services shall provide that the annual adjustment under section 1833(h) of the Social Security Act for 1986—

(A) shall take effect on January 1, 1987,

(B) shall apply for the 12-month period beginning on that date, and

(C) shall take into account the percentage increase or decrease in the Consumer Price Index for all urban consumers (United States city average) occurring over an 18-month period, rather than over a 12-month period.

(b) PROVIDING CEILING ON RATES.—

(1) CEILING ON PAYMENTS.—Paragraphs (1)(D)(i) and (2)(D)(i) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting after "lesser of the amount determined under such fee schedule" the following: ", the limitation amount for that test determined under subsection (h)(4)(B),".

(2) ESTABLISHMENT OF LIMITATION AMOUNT.—Section 1833(h)(4) of such Act is amended by inserting "(A)" after "(4)" and by adding at the end the following new subparagraph:

"(B) For purposes of subsections (a)(1)(D)(i) and (a)(2)(D)(i), the limitation amount for a clinical diagnostic laboratory test performed—

"(i) on or after July 1, 1986, and before January 1, 1988, is equal to 115 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(ii) after December 31, 1987, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 110 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(3) METHOD OF PAYMENT FOR NON-INDEPENDENT LABORATORIES.—Section 1833(h)(5)(C) of such Act is amended by striking out "which is independent of a physician's office or" and inserting in lieu thereof "other than".

(4) EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY.—Section 1123(a) of such Act (42 U.S.C. 1320a-2(a)) is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1987".

(5) EFFECTIVE DATES.—(A) The amendments made by paragraphs (1) and (2) shall apply to clinical diagnostic laboratory tests performed on or after July 1, 1986.

42 USC 1395l note.

(B) The amendment made by paragraph (3) shall apply to clinical diagnostic laboratory tests performed on or after January 1, 1987.

42 USC 1395l note.

(C) The amendment made by paragraph (4) shall take effect on the date of the enactment of this Act.

42 USC 1320a-2 note.

(c) REPORT ON MINIMUM STANDARDS FOR CLINICAL LABORATORIES THAT ARE PART OF, OR ASSOCIATED WITH, PHYSICIANS' OFFICES.—The Secretary of Health and Human Services shall report to Congress, not later than 12 months after the date of the enactment of this Act, on the standards that might be established under the medicare program for clinical laboratories which are part of or associated with a physician's office to assure the health and safety of individuals with respect to whom the laboratories perform clinical diagnostic laboratory tests for which payment may be made under the program. In recommending standards, the Secretary shall consider the differences in the scope, type, and complexity of tests performed by such laboratories and such other factors as may indicate a need for different standards for laboratories with different characteristics.

SEC. 9304. DETERMINATIONS OF INHERENT REASONABLENESS OF CHARGES AND CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.

(a) REGULATIONS RELATING TO INHERENT REASONABLENESS OF CHARGES.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(8) The Secretary by regulation shall—

"(A) describe the factors to be used in determining the cases (of particular items or services) in which the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

"(B) provide in those cases for the factors that will be considered in establishing a reasonable charge that is realistic and equitable.".

42 USC 1395u note.

(b) Computation of Customary Charges for Certain Former Hospital-Compensated Physicians.—(1) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 8-month period beginning May 1, 1986, in the case of a physician who at anytime during the period beginning on October 31, 1982, and ending on January 31, 1985, was a hospital-compensated physician (as defined in paragraph (3)) but who, as of February 1, 1985, was no longer a hospital-compensated physician, the physician's customary charges shall—

(A) be based upon the physician's actual charges billed during the 12-month period ending on March 31, 1985, and

(B) in the case of a physician who was not a participating physician (as defined in section 1842(h)(1) of the Social Security Act) on September 30, 1985, and who is not such a physician on May 1, 1986, be deflated (to take into account the legislative freeze on actual charges for nonparticipating physicians' services) by multiplying the physician's customary charges by .85.

(2) In applying section 1842(b) of the Social Security Act to payment for physicians' services performed during the 8-month period beginning May 1, 1986, in the case of a physician who during the period beginning on February 1, 1985, and ending on December 31, 1986, changes from being a hospital-compensated physician to not being a hospital-compensated physician, the physician's customary charges shall be determined in the same manner as if the physician were considered to be a new physician.

(3) In this subsection, the term "hospital-compensated physician" means, with respect to services furnished to patients of a hospital, a physician who is compensated by the hospital for the furnishing of physicians' services for which payment may be made under this part.

SEC. 9305. PHYSICIAN PAYMENT REVIEW COMMISSION AND DEVELOPMENT OF RELATIVE VALUE SCALE.

(a) Establishment of Commission.—Part B of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"PHYSICIAN PAYMENT REVIEW COMMISSION

42 USC 1395w-1.

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"Sec. 1845. (a)(1) The Director of the Congressional Office of Technology Assessment (hereinafter in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Physician Payment Review Commission (hereinafter in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of physicians' services appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed no later than May 1, 1986, for a term of three years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than four members expire in any one year.

"(3) The membership of the Commission shall include physicians, other health professionals, individuals skilled in the conduct and interpretation of biomedical, health services, and health economics research, and representatives of consumers and the elderly. The Director shall seek nominations from a wide range of groups, including—

"(A) national organizations representing physicians, including medical specialty organizations,

"(B) organizations representing the elderly and consumers,

"(C) national organizations representing medical schools,

"(D) national organizations representing hospitals, including teaching hospitals, and

"(E) national organizations representing health benefits programs.

"(b)(1) The Commission shall make recommendations to the Congress, not later than March 1 of each year (beginning with 1987), regarding adjustments to the reasonable charge levels for physicians' services recognized under section 1842(b) and changes in the methodology for determining the rates of payment, and for making payment, for physicians' services under this title and other items and services under this part.

"(2) In making its recommendations, the Commission shall—

"(A) consider, and make recommendations on the feasibility and desirability of reducing, the differences in payment amounts for physicians' services under this part which are based on differences in geographic location or specialty;

"(B) review the input costs (including time, professional skills, and risks) associated with the provision of different physicians' services;

"(C) identify those charges recognized as reasonable under section 1842(b) which are significantly out-of-line, based on the considerations of subparagraphs (A) and (B);

42 USC 1395u.

"(D) assess the likely impact of different adjustments in payment rates, particularly their impact on physician participation in the participation program established under section 1842(h) and on beneficiary access to necessary physicians' services;

"(E) make recommendations on ways to increase physician participation in that participation program and the acceptance of payment under this part on an assignment-related basis;

"(F) make recommendations respecting the advisability and feasibility of making changes in the payment system for physicians' services under this part based on (i) the Secretary's study under section 603(b)(2) of the Social Security Amendments of 1983 (relating to payments for physicians' services furnished to hospital inpatients on the basis of diagnosis-related groups) and (ii) the Office's report under section 2309 of the Deficit Reduction Act of 1984 (relating to physician reimbursement under this part);

42 USC 1395b-1 note.

42 USC 1395*l* note.

"(G) identify those procedures, involving the use of assistants at surgery, for which payment for those assistants should not be made under this title without prior approval; and

"(H) identify those procedures for which an opinion of a second physician should be required before payment is made under this title.

"(3) The Commission also shall advise and make recommendations to the Secretary respecting the development of the relative value scale under subsection (e).

"(c)(1) The following provisions of section 1886(e)(6) shall apply to the Commission in the same manner as they apply to the Prospective Payment Assessment Commission:

42 USC 1395ww.

"(A) Subparagraph (C) (relating to staffing and administration generally).

"(B) Subparagraph (D) (relating to compensation of members).

"(C) Subparagraph (F) (relating to access to information).

"(D) Subparagraph (G) (relating to reports and use of funds).

"(E) Subparagraph (H) (relating to periodic GAO audits).

"(F) Subparagraph (J) (relating to requests for appropriations).

"(2) In order to carry out its functions, the Commission shall collect and assess information on medical and surgical procedures and services, including information on regional variations of medical practice. In collecting and assessing information, the Commission shall—

"(A) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section,

"(B) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate for the development of useful and valid guidelines by the Commission, and

"(C) adopt procedures allowing any interested party to submit information with respect to physicians' services (including new practices, such as the use of new technologies and treatment modalities), which information the Commission shall consider in making reports and recommendations to the Secretary and Congress.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(b) Development of Relative Value Scale for Physicians' Services.—Section 1845 of the Social Security Act, as added by subsection (a), is further amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall develop a relative value scale that establishes a numerical relationship among the various physicians' services for which payment may be made under this part or under State plans approved under title XIX. 42 USC 1396.

"(2) In developing the scale, the Secretary shall consider among

other items—

"(A) the report of the Office of Technology Assessment under section 2309 of the Deficit Reduction Act of 1984, 42 USC 1395*l* note.

"(B) the recommendations of the Physician Payment Review Commission under subsection (b)(3), and

"(C) factors with respect to the input costs for furnishing particular physicians' services, such as—

"(i) the differences in costs of furnishing services in different settings,

"(ii) the differences in skill levels and training required to perform the services, and

"(iii) the time required, and risk involved, in furnishing different services.

Report. "(3) The Secretary shall complete the development of the relative value scale under this section, and report to Congress on the development, not later than July 1, 1987. The report shall include recommendations for the application of the scale to payment for physicians' services furnished under this part on or after January 1, 1988.".

SEC. 9306. LIMITATION ON MEDICARE PAYMENT FOR POST-CATARACT SURGERY PATIENTS.

(a) Determination of Separate Payment Amounts for Prosthetic Lenses and Professional Services.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by adding after paragraph (8), added by section 9304(a) of this title, the following new paragraph:

"(9) In providing payment for cataract eyeglasses and cataract contact lenses, and professional services relating to them, under this part, each carrier shall—

"(A) provide for separate determinations of the payment amount for the eyeglasses and lenses and of the payment amount for the professional services of a physician (as defined in section 1861(r)), and 42 USC 1395x.

"(B) not recognize as reasonable for such eyeglasses and lenses more than such amount as the Secretary establishes in guidelines relating to the inherent reasonableness of charges for such eyeglasses and lenses.".

(b) Effective Date.—The amendments made by this section shall apply to items and services furnished on or after April 1, 1986.

42 USC 1395u note.

SEC. 9307. PAYMENT FOR ASSISTANTS AT SURGERY FOR CERTAIN CATARACT OPERATIONS AND OTHER OPERATIONS.

(a) Limitation on Payment.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking out "or" at the end of paragraph (13),

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(15) which are for services of an assistant at surgery in a cataract operation unless, before the surgery is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) or a carrier under section 1842 has approved of the use of such an assistant in the surgical procedure based on the existence of a complicating medical condition.".

42 USC 1320c.
42 USC 1395u.

(b) Additional PRO Functions.—Section 1154(a)(8) of such Act (42 U.S.C. 1320c-3(a)(8)) is amended by inserting before the period at the end the following: "or as may be required to carry out section 1862(a)(15)".

100 STAT. 194

Ante, p. 193.

(c) Prohibition for Submitting Bill for Which Payment May Not Be Made.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(1) in subsection (j)(2), by inserting "or subsection (k)" after "paragraph (1)", and

(2) by adding at the end the following new subsection:

"(k)(1) If a physician knowingly and willfully bills an individual enrolled under this part for charges for services as an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(2) If a physician knowingly and willfully bills an individual enrolled under this part for charges that includes a charge for an assistant at surgery for which payment may not be made by reason of section 1862(a)(15), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

(d) Extension of Prohibition to Other Procedures.—The Secretary of Health and Human Services, after consultation with the Physician Payment Review Commission, shall develop recommendations and guidelines respecting other surgical procedures for which an assistant at surgery is generally not medically necessary and the circumstances under which the use of an assistant at surgery is generally appropriate but should be subject to prior approval of an appropriate entity. The Secretary shall report to Congress, not later than January 1, 1987, on these recommendations and guidelines.

42 USC 1395y note.

(e) Effective Date.—The amendments made by this section shall apply to services performed on or after April 1, 1986.

42 USC 1320c-3 note.

Subpart B—Benefits and Other Provisions

SEC. 9313. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking out "1988" and inserting in lieu thereof "1989" each place it appears;

(2) in subsection (f)(1), by striking out "or 1986" and inserting in lieu thereof ", 1986, or 1987"; and

(3) in subsection (f)(2), by striking out "or 1987" and inserting in lieu thereof ", 1987, or 1988".

SEC. 9314. DEMONSTRATION OF PREVENTIVE HEALTH SERVICES UNDER MEDICARE.

42 USC 1395b-1 note.

(a) DEMONSTRATION PROGRAM.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a 4-year demonstration program designed to reduce disability and dependency through the provision of preventive health services to individuals entitled to benefits under title XVIII of the Social Security Act (hereinafter in this section referred to as "medicare beneficiaries").

42 USC 1395c.

(b) PREVENTIVE HEALTH SERVICES UNDER DEMONSTRATION PROGRAM.—The preventive health services to be made available under the demonstration program shall include—

(1) health screenings,

(2) health risk appraisals,

100 STAT. 195

(3) immunizations, and

(4) counseling on and instruction in—

(A) diet and nutrition,

(B) reduction of stress,

(C) exercise and exercise programs,

(D) sleep regulation,

(E) injury prevention,

(F) prevention of alcohol and drug abuse,

(G) prevention of mental health disorders,

(H) self-care, including use of medication, and

(I) reduction or cessation of smoking.

Schools and colleges.

(c) CONDUCT OF PROGRAM.—The demonstration program shall—

(1) be conducted under the direction of accredited public or private nonprofit schools of public health or preventive medicine departments accredited by the Council on Education for Public Health;

(2) be conducted in no fewer than five sites, which sites shall be chosen so as to be geographically diverse and shall be readily accessible to a significant number of medicare beneficiaries;

(3) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in the program; and

(4) be designed—

(A) to test alternative methods of payment for preventive health services, including payment on a prepayment basis as well as payment on a fee-for-service basis,

(B) to permit a variety of appropriate health care providers to furnish preventive health services, including physicians, health educators, nurses, allied health personnel, dieticians, and clinical psychologists, and

(C) to facilitate evaluation under subsection (d).

(d) EVALUATION.—The Secretary shall evaluate the demonstration project in order to determine—

(1) the short-term and long-term costs and benefits of providing preventive health services for medicare beneficiaries, including any reduction in inpatient services resulting from providing the services, and

(2) what practical mechanisms exist to finance preventive health services under title XVIII of the Social Security Act.

42 USC 1395c.

(e) REPORTS TO CONGRESS.—(1) Not later than three years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration program, including a description of the sites at which the program is being conducted and the preventive health services being provided at the different sites.

(2) Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report—

(A) the evaluation described in subsection (d), and

(B) recommendations for appropriate legislative changes to incorporate payment for cost-effective preventive health services into the medicare program.

(f) Funding.—Expenditures made for the demonstration program shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. Funding for the demonstration program shall not exceed $4,000,000 over the duration of the program.

42 USC 1395t.

100 STAT. 196

(g) Waiver of Medicare Requirements.—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

42 USC 1395c.

SEC. 9315. EXTENSION OF GAO REPORTING DATE.

(a) Extension.—Section 2326(e)(2) of the Deficit Reduction Act of 1984 (98 Stat. 1088) is amended by striking out "12 months after the date of the enactment of this Act" and inserting in lieu thereof "May 1, 1986".

42 USC 1395h note.

(b) Effective Date.—The amendment made by this section shall apply as though it were included in the Deficit Reduction Act of 1984 as originally enacted.

PART 4—PEER REVIEW ORGANIZATIONS

SEC. 9401. 100 PERCENT PEER REVIEW OF CERTAIN SURGICAL PROCEDURES.

(a) Requirement.—Section 1154(a) of the Social Security Act (42 U.S.C. 1395c-3(a)) is amended by adding at the end thereof the following new paragraph:

42 USC 1320c-3.

"(12) The organization shall perform the review, referral, and other functions required under section 1164.".

Infra.

(b) Additional Peer Review Functions.—Part B of title XI of the Social Security Act is amended by adding at the end the following new section:

"100 PERCENT PEER REVIEW FOR CERTAIN SURGICAL PROCEDURES

"Sec. 1164. (a) 100 Percent Review Function.—

42 USC 1320c-13.

"(1) In general.—Each utilization and quality control peer review organization shall perform the review described in section 1154(a)(1) for 100 percent of the surgical procedures specified pursuant to subsection (b).

42 USC 1320c-3.

"(2) Timing of review.—

"(A) In general.—Except as provided in subparagraph (B), the review required under paragraph (1) shall be performed—

"(i) before the performance of the procedure, in the case of an outpatient procedure, or

"(ii) before admission to the hospital for the provision of services in connection with the procedure, in the case of a procedure performed on an inpatient basis.

"(B) Exception.—The review with respect to a procedure need not be performed by the time specified in subparagraph (A) in cases of a medical emergency and under such other circumstances as the Secretary may specify.

"(b) Specification of Surgical Procedures and Qualified Reviewers.—

"(1) In contract.—The contract with each organization under this part shall specify at least 10 surgical procedures to be covered under this section.

100 STAT. 197

"(2) Selection guidelines.—

"(A) In general.—The specification of procedures shall be consistent with selection guidelines established by the Secretary under paragraph (3). The procedures specified shall be included among the surgical procedures which the Secretary has identified as reasonably being able to meet such guidelines.

"(B) Exception.—The Secretary may permit an organization to include among the procedures specified under paragraph (1) procedures not identified by the Secretary under paragraph (2)(A) if to do so would be cost effective and consistent with the criteria described in paragraph (3).

"(3) Criteria.—The Secretary shall establish such guidelines and identify such surgical procedures consistent with the following criteria:

"(A) The procedure is one which generally can be postponed without undue risk to the patient.

"(B) The procedure is a high volume procedure among patients who are covered under the programs established under title XVIII or is a high cost procedure. 42 USC 1395c.

"(C) The procedure has a comparatively high rate of nonconfirmation upon examination by another qualified physician, there is substantial geographic variation in the rates of performance of the procedure, or there are other reasons why pre-procedure review for 100 percent of the procedures would be cost effective.

"(4) Qualifications for Physicians Providing Second Opinions.—

"(A) In general.—The Secretary shall specify, for each procedure identified under paragraphs (2) and (3), the type or types of board certified or board eligible specialists who may conduct a second opinion, required under subsection (c), based upon the nature of the procedure.

"(B) Freedom of choice of patient to choose physician.—Subject to paragraphs (C) and (D), the patient may choose any physician of the proper specialty under subparagraph (A) to provide the second opinion.

"(C) Physicians prohibited from providing second opinions.—For purposes of this section, a second opinion may not be provided by a physician who is affiliated with, or has a common financial interest with, the physician who rendered the first opinion that the procedure was necessary.

"(D) Restricted list.—In accordance with guidelines of the Secretary, an organization may disqualify a physician from providing a second opinion under this section because of the gross unreliability of the second opinions provided.

"(c) Requiring a Second Opinion in Certain Cases.—

"(1) Determinations by organization.—In the case of a review performed pursuant to subsection (a), the organization shall determine, based on such review, that the surgical procedure—

"(A) is reasonable and medically necessary,

"(B) is not reasonable and medically necessary, or

"(C) may be considered reasonable and necessary, but, because of questions as to the medical appropriateness of performing the procedure, it is appropriate to require the patient to seek a second opinion as to the necessity and appropriateness of performing the procedure before the performance of the procedure.

100 STAT. 198

The Secretary shall develop appropriate measures to ensure that second opinions are only required in situations where a second opinion is needed to resolve outstanding uncertainties as to the medical necessity of the procedure. The organization shall notify, in accordance with section 1154(a)(3), the physician, patient, and hospital or other entity furnishing the service, in the event of a determination under subparagraph (B) or (C) of this paragraph. 42 USC 1320c-3.

"(2) Prohibition of payment if required second opinion not provided.—No payment may be made under part A or part B of title XVIII with respect to items or services furnished in connection with a surgical procedure for which there is a determination described in paragraph (1)(C), unless the individual undergoing the procedure obtains the second opinion required under that paragraph. The second opinion need not necessarily agree with the first opinion in order for payment to be made.

42 USC 1395c, 1395j.

"(3) Exceptions for elective second opinions.—Paragraphs (1)(C) and (2) shall not apply to a surgical procedure if—

"(A) a delay in providing the procedure would result in a risk to the patient;

"(B) no physician is available (within such reasonable limits as the Secretary shall specify) who is (i) qualified to provide the second opinion, and (ii) a participating physician or a physician who has agreed to accept assignment for the second opinion; or

"(C) the procedure is to be performed on a patient who is a member of a health maintenance organization or competitive medical plan having a risk-sharing contract with the Secretary under section 1876.

42 USC 1395mm.

"(d) Referral Mechanism for Second Opinions.—

"(1) Acting as referral center.—Each organization shall serve as a referral center for second opinions required under this section.

"(2) Referral of patient.—The organization shall maintain a list of physicians qualified to provide a second opinion and shall advise the patient as to which physicians are participating physicians (within the meaning of section 1842(h)) and which physicians have agreed to accept assignment to perform second opinions. The organization shall assist patients in referral to a qualified physician of the appropriate specialty for purposes of providing the opinion.

42 USC 1395u.

"(3) Forwarding of relevant medical records.—Each peer review organization shall, if the patient seeking the second opinion so requests, obtain the relevant medical records from the physician who rendered the first opinion that the procedure was necessary, and provide the relevant information to the physician selected by the patient to render the second opinion.

"(e) Notice to Physicians, Hospitals, and Beneficiaries.—The Secretary shall assure that notice is provided to physicians, hospitals, ambulatory surgical centers, and beneficiaries respecting the activities under this section, including the applicable list of surgical procedures specified under this section.".

(b) Waiver of Deductible and Copayments.—

(1) Deductible.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by striking out "and" before "(4)", and by inserting before the period at the end of the first sentence the following: ", and (5) such deductible shall not apply with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

42 USC 1395*l*.

100 STAT. 199

Ante, p. 196.

(2) Copayments.—(A) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking out "and" before "(F)", and by adding at the end thereof the following: "and (G) with respect to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion), the amounts paid shall be 100 percent of the reasonable charges for such items and services;".

42 USC 1395*l*.

(B) Section 1833(a)(1)(D) of such Act is amended by striking out "or under the procedure described in section 1870(f)(1)" and inserting in lieu thereof ", under the procedure described in

42 USC 1395gg.

section 1870(f)(1), or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(C) Section 1833(a)(2)(A) of such Act is amended by inserting ", to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)," after "(other than durable medical equipment)".

(D) Section 1833(a)(2)(D) of such Act is amended by striking out "or to a provider having an agreement under section 1866" and inserting in lieu thereof "to a provider having an agreement under section 1866, or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion)".

(E) Section 1833(a)(3) of such Act is amended by inserting after "1861(s)(10)(A)" the following: "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion".

(F) The last sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395cc(a)(2)(A)) is amended by inserting after "1861(s)(10)(A)" the following: ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

(c) CONFORMING AMENDMENTS.—

42 USC 1395y.

(1) EXCLUSIONS FROM COVERAGE.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395g(a)), as amended by section 9307(a) of this title, is amended—

(A) by striking out "or" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(16) furnished in connection with a surgical procedure for which a second opinion is required under section 1164(c)(2) and has not been obtained.".

100 STAT. 200

42 USC 1320c-3 note.

Contracts.

42 USC 1320c.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1987. The Secretary of Health and Human Services shall provide for such modification of contracts under part B of title XI of the Social Security Act that are in effect on that date as may be necessary to effect these amendments on a timely basis.

42 USC 1320c-13 note.

(e) STUDY.—The Secretary of Health and Human Services shall conduct a study of the results of the amendments made by this section, and shall report the results of the study to the Congress within 36 months after the date of the enactment of this Act.

SEC. 9402. PEER REVIEW ORGANIZATION REIMBURSEMENT.

(a) REIMBURSEMENT AMOUNTS.—Section 1866(a)(1)(F) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)) is amended—

(1) by striking out clause (iii),

(2) by inserting "and" at the end of clause (ii),

(3) by redesignating clause (iv) as clause (iii), and

(4) by striking out "1982" in clause (iii) as so redesignated and inserting in lieu thereof "1986".

(b) MONTHLY PAYMENTS.—Section 1153(c)(8) of such Act (42 U.S.C. 1320c-2(c)(8)) is amended to read as follows:

"(8) reimbursement shall be made to the organization on a monthly basis, with payments for any month being made not later than 15 days after the close of such month.".

(c) Effective Dates.—(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act. 42 USC 1395cc note.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act. 42 USC 1320c-2 note.

SEC. 9403. DENIAL OF PAYMENT FOR SUBSTANDARD CARE.

(a) Denial Authority for PRO.—Section 1154(a)(2) of the Social Security Act (42 U.S.C. 1320c-3(a)(2)) is amended—

(1) by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A), (B), and (C)"; and

(2) by adding at the end thereof (after and below subparagraph (D)) the following:

"Determinations that payment should not be made by reason of subparagraph (B) of paragraph (1) shall be made only on the basis of criteria which are consistent with guidelines established by the Secretary.".

(b) Waiver of Liability.—Section 1866(a)(1) of such Act (42 U.S.C. 1395cc(a)(1)) is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and", and by inserting after subparagraph (H) the following new subparagraph:

"(I) not to charge any individual or any other person for items or services for which payment under this title is denied under section 1154(a)(2) by reason of a determination under section 1154(a)(1)(B).".

(c) Effective Date.—The amendments made by this section shall become effective on the date of the enactment of this Act. 42 USC 1320c-3 note.

SEC. 9404. HEALTH MAINTENANCE ORGANIZATION MEMBERSHIP ON PEER REVIEW ORGANIZATION BOARDS.

(a) Removal of One-Member Limitation.—Section 1153(b)(2)(A) of the Social Security Act (42 U.S.C. 1320c-2(b)(2)(A)) is amended by striking out "consists only of one individual member of the governing board" and inserting in lieu thereof "consists only of members of the governing board".

(b) Effective Date.—The amendment made by this section shall become effective on the date of the enactment of this Act. 42 USC 1320c-2 note.

SEC. 9405. PEER REVIEW ORGANIZATION REVIEW OF HEALTH MAINTENANCE ORGANIZATIONS.

(a) Comparable Review for Health Maintenance Organizations and Competitive Medical Plans.—Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by inserting "(including where payment is made for such services to eligible organizations pursuant to contracts under section 1876)" after "title XVIII". 42 USC 1395mm.

(b) Effective Date.—The amendment made by this section shall apply to items and services furnished on or after January 1, 1987. 42 USC 1320c-3 note.

SEC. 9406. SUBSTITUTE REVIEW PENDING TERMINATION OF A PEER REVIEW ORGANIZATION CONTRACT.

(a) Substitute Review.—Section 1153(d) of the Social Security Act (42 U.S.C. 1320c-2(d)) is amended by adding at the end thereof the following new paragraph:

"(4) During the period after the Secretary has given notice of intent to terminate a contract, and prior to the time that the Secretary enters into a contract with another utilization and quality control peer review organization, the Secretary may transfer review responsibilities of the organization under the contract being terminated to another utilization and quality control peer review organization, or to an intermediary or carrier having an agreement under section 1816 or a contract under section 1842.". 42 USC 1395h, 1395u.

(b) Effective Date.—The amendment made by this section shall become effective on the date of the enactment of this Act. 42 USC 1320c-2 note.

Subtitle B—Medicaid and Maternal and Child Health

SEC. 9501. SERVICES FOR PREGNANT WOMEN.

(a) Expanded Coverage.—Section 1905(n)(1) of the Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

State and local governments.
42 USC 601.

"(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and".

(b) Optional Expansion of Pregnancy-Related Services.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D) thereof—

(1) by striking out "and" before "(IV)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other condition which may complicate pregnancy shall not , by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan".

100 STAT. 202

42 USC 1396a.

(c) Postpartum Eligibility for Pregnant Women.—Section 1902(e) of such Act (42 U.S.C. 1396b(e)) is amended by adding at the end the following new paragraph:

State and local government.

"(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, until the end of the 60-day period beginning on the last day of her pregnancy.".

(d) Effective Dates.—

42 USC 1396d note.
42 USC 1396.

(1) Expanded coverage.—(A) The amendments made by subsection (a) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the July 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date.

State and local government.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

42 USC 1396a note.

(2) Optional services.—The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

42 USC 1396a note.

(3) Continued coverage.—The amendment made by subsection (c) shall apply to medical assistance furnished to a woman on or after the date of the enactment of this Act.

SEC. 9502. MODIFICATIONS OF WAIVER PROVISIONS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) Explicit Inclusion of Certain Prevocational and Educational Services.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (4)(B), the term 'habilitation services', with respect to individuals who receive such services after discharge from a skilled nursing facility or intermediate care facility—

"(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

100 STAT. 203

"(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

"(C) does not include—

"(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

"(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).".

(b) Permitting Hospital Level of Care for Certain Participants.—(1) Section 1915(c)(1) of such Act (42 U.S.C. 1396n(c)(1)) is amended by inserting "or but for the provision of such services the individuals would continue to receive inpatient hospital services, skilled nursing facility services, or intermediate care facility services because they are dependent on ventilator support the cost of which is reimbursed under the State plan" before the period at the end thereof.

State and local governments.

(2) Section 1915(c)(2)(C) of such Act (42 U.S.C. 1396n(c)(2)(C)) is amended—

(A) by inserting "hospital or" after "provided in a"; and

(B) by inserting "inpatient hospital services or" after "the provision of".

(c) Prohibiting Imposition of Certain Regulatory Limits.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting "100 percent of" after "does not exceed"; and

(2) by adding at the end thereof the following new paragraph:

"(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.".

State and local governments.

(d) Computation of Expenditures for Certain Disabled Patients.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)), as amended by subsection (c), is further amended by adding at the end thereof the following new paragraph:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver which applies only to physically disabled individuals who are inpatients in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure which would have been made in a fiscal year for those individuals under the State plan separately from the expenditure for other individuals who are inpatients of those facilities.".

State and local governments.

(e) Permitting Flexibility in Establishing Maintenance Income Standards.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by adding at the end the following new sentence: "A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.".

100 STAT. 204

State and local governments.
42 USC 1396n note.

(f) Waiver Extensions.—The Secretary of Health and Human Services shall extend, upon request of the State, any waiver under section 1915(c) of the Social Security Act which expires on or after September 30, 1985, and before September 30, 1986. Such extension shall be for a period of not less than one year nor more than five years, subject to section 1915(e)(1) of such Act.

(g) Waiver Renewals.—Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended—

(1) by striking out "additional three-year periods" and inserting in lieu thereof "additional five-year periods"; and

(2) by striking out "previous three-year period" and inserting in lieu thereof "previous waiver period".

(h) Coordinated Services Between MCH Program and Home and Community-Based Service Programs.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (d) of this section, is further amended by adding at the end thereof the following new paragraph:

State and local governments.

42 USC 701.

"(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs of such children.".

(i) Substitution of Participants.—(1) Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new paragraph:

State and local governments.

"(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.".

42 USC 1396n note.

(j) Effective Dates.—

(1) Habilitation services.— The amendment made by subsection (a) shall be effective for services furnished on or after the date of the enactment of this Act.

(2) Hospitalized patients.—The amendments made by subsection (b) shall be effective for services furnished on or after October 1, 1985.

(3) Prohibition of regulatory limits and treatment of certain physically disabled individuals.—The amendments made by subsections (c) and (d) shall apply to applications for waivers (or renewals thereof) filed before, on, or after, the date of the enactment of this Act and for services furnished on or after August 13, 1981.

(4) Income standards.—The amendment made by subsection (e) shall apply to waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

(5) Waiver extensions.—Subsection (f) shall apply to waivers expiring on or after September 30, 1985, and before September 30, 1986.

(6) Waiver renewals.—The amendments made by subsection (g) shall become effective on September 30, 1986.

100 STAT. 205

(7) Coordinated services and substitution of participants.—The amendments made by subsections (h) and (i) shall become effective on the date of the enactment of this Act.

SEC. 9503. THIRD-PARTY LIABILITY.

(a) AMENDMENTS TO STATE PLAN REQUIREMENTS.—(1) Section 1902(a)(25) of the Social Security Act (42 U.S.C. 1396a(a)(25)) is amended to read as follows:

"(25) provide—

"(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers) to pay for care and services available under the plan, including—

"(i) the collection of sufficient information (as specified by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and Claims.

"(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall—

"(I) be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r), and 42 USC 1396b.

"(II) be subject to the provisions of section 1903(r)(4) relating to reductions in Federal payments for failure to meet conditions of approval, but shall not be subject to any other financial penalty as a result of any other monitoring, quality control, or auditing requirements;

"(B) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

"(C) that in the case of an individual who is entitled to medical assistance under the State plan with respect to a service for which a third party is liable for payment, the person furnishing the service may not seek to collect from the individual (or any financially responsible relative or representative of that individual) payment of an amount for that service (i) if the total of the amount of the liabilities of third parties for that service is at least equal to the amount payable for that service under the plan (disregarding section 1916), or (ii) in an amount which exceeds the lesser of (I) the amount which may be collected under section 1916, or (II) the amount by which the amount payable for that service under the plan (disregarding section 1916) exceeds the total of the amount of the liabilities of third parties for that service; Prohibition. 42 USC 1396o.

"(D) that a person who furnishes services and is participating under the plan may not refuse to furnish services to an individual (who is entitled to have payment made under the plan for the services the person furnishes) because of a third party's potential liability for payment for the service; Prohibition. 100 STAT. 206

"(E) that in the case of prenatal or preventive pediatric care (including early and periodic screening and diagnosis services under section 1905(a)(4)(B)) covered under the State plan, the State shall— 42 USC 1396d.

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to the liability of a third party for payment for such services; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B); and

"(F) that in the case of any services covered under such plan which are provided to an individual on whose behalf child support enforcement is being carried out by the State agency under part D of title IV of this Act, the State shall—

42 USC 651.

"(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to any third-party liability for payment for such services, if such third-party liability is derived (through insurance or otherwise) from the parent whose obligation to pay support is being enforced by such agency, if payment has not been made by such third party within 30 days after such services are furnished; and

"(ii) seek reimbursement from such third party in accordance with subparagraph (B);".

(2) Section 1902 of such Act (42 U.S.C. 1396a) is amended by inserting after subsection (f) the following new subsection:

"(g) In addition to any other sanction available to a State, a State may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of subsection (a)(25)(C).".

(b) PERFORMANCE STANDARDS AND REVIEW FOR MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS.—(1) Section 1903(r)(6)(J) of such Act (42 U.S.C. 1396b(r)(6)(J)) is amended to read as follows:

"(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accordance with section 1902(a)(25)(A)(ii).".

(2) Section 1903(r)(4)(A) of such Act (42 U.S.C. 1396b(r)(4)(A)) is amended—

(A) by striking out "once each fiscal year" and inserting in lieu thereof "once every three years"; and

(B) by adding at the end thereof the following: "Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, systems requirements, and other conditions which have demonstrated weakness in previous reviews.".

42 USC 1396a note.

(c) REGULATIONS.—The Secretary of Health and Human Services shall promulgate final regulations necessary to carry out sections 1902(a)(25) and 1903(r)(6)(J) of the Social Security Act within 6 months after the date of the enactment of this Act.

100 STAT. 207

(d) ERISA AMENDMENT.—(1) Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end thereof the following new paragraph:

Prohibition.

"(8) Subsection (a) of this section shall not apply to any State law mandating that an employee benefit plan not include any provision which has the effect of limiting or excluding coverage or payment for any health care for an individual who would otherwise be covered or entitled to benefits or services under the terms of the employee benefit plan, because that individual is provided, or is eligible for, benefits or services pursuant to a plan under title XIX of the Social Security Act, to the extent such law is necessary for the State to be eligible to receive reimbursement under title XIX of that Act.".

42 USC 1396.

29 USC 1144 note.
Effective dates.

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall become effective on October 1, 1986.

(B) In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before the date of the enactment of this Act, the amendment made by paragraph (1) shall become effective on the later of—

(i) October 1, 1986; or

(ii) the earlier of—

(I) the date on which the last of the collective bargaining agreements under which the plan is maintained, which were in effect on the date of the enactment of this Act, terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act); or

(II) three years after the date of the enactment of this Act.

(e) Condition of Eligibility.—Section 1912(a)(1) of the Social Security Act (42 U.S.C. 1396k(a)(1)) is amended by striking out "and" at the end of subparagraph (A), and by adding at the end thereof the following new subparagraph:

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and".

(f) Disregard From Erroneous Payments.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end thereof the following new clause:

"(iv) In determining the amount of erroneous excess payments, there shall not be included any error resulting from a failure of an individual to cooperate or give correct information with respect to third-party liability as required under section 1912(a)(1)(C) or 402(a)(26)(C).". 42 USC 602.

(g) Effective Dates.—(1) Except as otherwise provided, the amendments made by this section shall apply to calendar quarters beginning on or after the date of the enactment of this Act. 42 USC 1396a note.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the 100 STAT. 208 additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3) No penalty may be applied against any State for a violation of section 1902(a)(25) of the Social Security Act occurring prior to the effective date of the amendments made by this section. Prohibition. 42 USC 1396a.

(4) The amendment made by subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 9505. OPTIONAL HOSPICE BENEFITS.

(a) Coverage of Hospice Care as an Optional Medicaid Benefit.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of paragraph (17);

(B) by redesignating paragraph (18) as paragraph (19); and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) hospice care (as defined in subsection (o)); and"; and

(2) by adding at the end thereof the following new subsection:

"(o)(1) The term 'hospice care' means the care described in section 1861(dd)(1) furnished by a hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to have payment made for hospice care instead of having payment made for certain benefits described in section 1812(d)(2)(A) and intermediate care facility serv- 42 USC 1395x. 42 USC 1395d.

ices under the plan. For purposes of such election, hospice care may be provided to an individual while such individual is a resident of a skilled nursing facility or intermediate care facility, but the only payment made under the State plan shall be for the hospice care.

"(2) An individual's voluntary election under this subsection—

"(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2);

"(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish; and

"(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.".

(b) ELIGIBILITY.—

(1) LIMITATION TO TERMINALLY ILL INDIVIDUALS.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by section 9501 of this Act, is further amended, in the matter following subparagraph (D), by striking out "and" before "(V)" and by inserting before the semicolon at the end thereof the following: ", and (VI) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an

42 USC 1395c.

amount, duration, or scope less than that provided under title XVIII, and the making available of such assistance shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals".

(2) HIGHER INCOME STANDARD PERMITTED.—Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) by striking out "or" at the end of subclause (V);

(B) by striking out the semicolon at the end of subclause (VI) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subclause:

"(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);".

42 USC 1396d.

(c) PAYMENT FOR HOSPICE CARE.—

(1) USE OF MEDICARE RATES.—Section 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) for payment for hospice care in the same amounts, and using the same methodology, as used under part A of title XVIII; except that a separate rate may be paid for hospice care which is furnished to an individual who is a resident of a skilled nursing facility or intermediate care facility, and who would be eligible under the plan for skilled nursing facility services or intermediate care facility services if he had not elected to receive hospice care, to take into account the room and board furnished by such facility; and".

42 USC 1395c.

(2) LIMITATION ON COPAYMENTS.—Subsections (a)(2) and (b)(2) of section 1916 of the Social Security Act (42 U.S.C. 1396o) are each amended—

(A) by striking out "or" at the end of subparagraph (C);

(B) by striking out "; and" at the end of subparagraph (D) and inserting in lieu thereof ", or"; and

(C) by adding at the end the following new subparagraph:

"(E) services furnished to an individual who is receiving hospice care (as defined in section 1905(o)); and".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking out "(18)" and inserting in lieu thereof "(19)".

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking out "through (17)" and inserting in lieu thereof "through (18)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance provided for hospice care furnished on or after the date of the enactment of this Act.

42 USC 1396a note.

SEC. 9506. TREATMENT OF POTENTIAL PAYMENTS FROM MEDICAID QUALIFYING TRUSTS.

(a) AMOUNTS TREATED AS BEING AVAILABLE FROM GRANTOR TRUSTS.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end thereof the following new subsection:

"(k)(1) In the case of a medicaid qualifying trust (described in paragraph (2)), the amounts from the trust deemed available to a grantor, for purposes of subsection (a)(17), is the maximum amount of payments that may be permitted under the terms of the trust to be distributed to the grantor, assuming the full exercise of discretion by the trustee or trustees for the distribution of the maximum amount to the grantor. For purposes of the previous sentence, the term 'grantor' means the individual referred to in paragraph (2).

"(2) For purposes of this subsection, a 'medicaid qualifying trust' is a trust, or similar legal device, established (other than by will) by an individual (or an individual's spouse) under which the individual may be the beneficiary of all or part of the payments from the trust and the distribution of such payments is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the individual.

"(3) This subsection shall apply without regard to—

"(A) whether or not the medicaid qualifying trust is irrevocable or is established for purposes other than to enable a grantor to qualify for medical assistance under this title; or

"(B) whether or not the discretion described in paragraph (2) is actually exercised.

"(4) The State may waive the application of this subsection with respect to an individual where the State determines that such application would work an undue hardship.".

State and local governments.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to medical assistance furnished on or after the first day of the second month beginning after the date of the enactment of this Act.

42 USC 1396a note.

SEC. 9507. WRITTEN STANDARDS FOR PROVISION OF ORGAN TRANSPLANTS.

(a) DENIAL OF FEDERAL PAYMENTS FOR ORGAN TRANSPLANTS UNLESS PROVIDED UNDER WRITTEN STANDARDS.—Section 1903(i) of the Social Security Act (42 U.S.C. 1396b(i)) is amended by inserting before paragraph (2) the following new paragraph:

"(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

"(A) similarly situated individuals are treated alike; and

"(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan.".

42 USC 1396b note.

(b) Effective Date.—The amendments made by subsection (a) shall apply to medical assistance furnished on or after January 1, 1987.

SEC. 9508. OPTIONAL TARGETED CASE MANAGEMENT SERVICES.

(a) Exemption From Certain Requirements.—(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended by adding at the end thereof the following new subsection:

State and local governments.

42 USC 1396a.

"(g)(1) A State may provide, as medical assistance, case management services under the plan without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B). The provision of case management services under this subsection shall not restrict the choice of the individual to receive medical assistance in violation of section 1902(a)(23).

"(2) For purposes of this subsection, the term 'case management services' means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.".

(2) Section 1915(b) of such Act (42 U.S.C. 1396n(b)) is amended by adding at the end thereof (after and below paragraph (4)) the following: "No waiver under this subsection may restrict the choice of the individual in receiving services under section 1905(a)(4)(C).".

42 USC 1396d.

42 USC 1396n note.

(b) Effective Date.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 9509. REVALUATION OF ASSETS.

(a) Revaluation of Assets.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)), as amended by section 9505 of this Act, is further amended—

(1) in subparagraph (B), by striking out "hospitals, skilled nursing facilities, and intermediate care facilities" and inserting in lieu thereof "hospitals";

(2) by striking out "and" at the end of subparagraph (C);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E); and

(4) by inserting after subparagraph (B) the following new subparagraph:

State and local governments.

"(C) that the State shall provide assurances satisfactory to the Secretary that the valuation of capital assets, for purposes of determining payment rates for skilled nursing facilities and intermediate care facilities, will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

"(i) one-half of the percentage increase (as measured over the same period of time, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes, applied in the aggregate with respect to those facilities which have undergone a change of ownership during the fiscal year, or

"(ii) one-half of the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average);".

42 USC 1396a note.

(b) Effective Dates.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to medical assistance furnished on or after October 1, 1985, but only with respect to changes of ownership occurring on or after such date.

Prohibition.

(2) The amendments made by this section shall not apply with respect to a change of ownership pursuant to an enforceable agreement entered into prior to October 1, 1985.

(3) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the requirements imposed by the amendments made by this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

State and local governments.
42 USC 1396.

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(c) GAO STUDY.—The Comptroller General shall conduct a study of the effects of the amendments made by this section, and shall report the results of such study to the Congress two years after the date of the enactment of this Act.

42 USC 1396a note.

SEC. 9510. BEGINNING DATE OF OPTIONAL COVERAGE FOR INDIVIDUALS IN MEDICAL INSTITUTIONS.

(a) COVERAGE.—Section 1902(a)(10)(A)(ii)(V) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(V)) is amended by inserting "for a period of not less than 30 consecutive days (with eligibility by reason of this subclause beginning on the first day of such period)" after "are in a medical institution".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payment for services furnished on or after October 1, 1985.

42 USC 1396a note.

SEC. 9511. OPTIONAL COVERAGE OF CHILDREN.

(a) STATE OPTION.—Section 1905(n)(2) of the Social Security Act (42 U.S.C. 1396d(h)(2)) is amended by inserting "(or such earlier date as the State may designate)" after "September 30, 1983".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services furnished on or after April 1, 1986.

42 USC 1396d note.

SEC. 9512. OVERPAYMENT RECOVERY RULES.

(a) OVERPAYMENT RECOVERY.—Section 1903(d)(2) of the Social Security Act (42 U.S.C. 1396b(d)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by designating the second sentence as subparagraph (B), properly indented and aligned below subparagraph (A); and

(3) by adding at the end thereof the following new subparagraphs:

"(C) For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

State and local governments.

"(D) In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).".

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(b) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments identified for quarters beginning on or after October 1, 1985.

42 USC 1396b note.

SEC. 9514. REGULATIONS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

The Secretary of Health and Human Services shall promulgate proposed regulations revising standards for intermediate care facilities for the mentally retarded under title XIX of the Social Security Act within 60 days after the date of the enactment of this Act.

42 USC 1396d note.
42 USC 1396.

SEC. 9515. LIFE SAFETY CODE RECOGNITION.

42 USC 1396d and notes.

For purposes of section 1905(c) of the Social Security Act, an intermediate care facility for the mentally retarded (as defined in section 1905(d) of such Act) which meets the requirements of the relevant sections of the 1985 edition of the Life Safety Code of the National Fire Protection Association shall be deemed to meet the fire safety requirements for intermediate care facilities for the mentally retarded until such time as the Secretary specifies a later edition of the Life Safety Code for purposes of such section, or the Secretary determines that more stringent standards are necessary to protect the safety of residents of such facilities.

SEC. 9516. CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

(a) CORRECTION AND REDUCTION PLANS.—Title XIX of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CORRECTION AND REDUCTION PLANS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

State and local governments.
42 USC 1396r.

"SEC. 1919. (a) If the Secretary finds that an intermediate care facility for the mentally retarded has substantial deficiencies which do not pose an immediate threat to the health and safety of residents, the State may elect, subject to the limitations in this section, to—

"(1) submit, within the number of days specified by the Secretary in regulations which apply to submission of compliance plans with respect to deficiencies of such type, a written plan of correction which details the extent of the facility's current compliance with the standards promulgated by the Secretary, including all deficiencies identified during a validation survey, and which provides for a timetable for completion of necessary steps to correct all staffing deficiencies within 6 months, and a timetable for rectifying all physical plant deficiencies within 6 months; or

"(2) submit, within a time period consisting of the number of days specified for submissions under paragraph (1) plus 35 days, a written plan for permanently reducing the number of certified beds, within a maximum of 36 months, in order to permit any noncomplying buildings (or distinct parts thereof) to be vacated and any staffing deficiencies to be corrected (hereinafter in this section referred to as a 'reduction plan').

"(b) As conditions of approval of any reduction plan submitted pursuant to subsection (a)(2), the State must—

"(1) provide for a hearing to be held at the affected facility at least 35 days prior to submission of the reduction plan, with reasonable notice thereof to the staff and residents of the facility, responsible members of the residents' families, and the general public;

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"(2) demonstrate that the State has successfully provided home and community services similar to the services proposed to be provided under the reduction plan for similar individuals eligible for medical assistance; and

"(3) provide assurances that the requirements of subsection (c) shall be met with respect to the reduction plan.

"(c) The reduction plan must—

"(1) identify the number and service needs of existing facility residents to be provided home or community services and the timetable for providing such services, in 6 month intervals, within the 36-month period;

"(2) describe the methods to be used to select such residents for home and community services and to develop the alternative home and community services to meet their needs effectively;

"(3) describe the necessary safeguards that will be applied to protect the health and welfare of the former residents of the facility who are to receive home or community services, including adequate standards for consumer and provider participation and assurances that applicable State licensure and applicable State and Federal certification requirements will be met in providing such home or community services;

"(4) provide that residents of the affected facility who are eligible for medical assistance while in the facility shall, at their option, be placed in another setting (or another part of the affected facility) so as to retain their eligibility for medical assistance;

"(5) specify the actions which will be taken to protect the health and safety of the residents who remain in the affected facility while the reduction plan is in effect;

"(6) provide that the ratio of qualified staff to residents at the affected facility (or the part thereof) which is subject to the reduction plan will be the higher of—

"(A) the ratio which the Secretary determines is necessary in order to assure the health and safety of the residents of such facility (or part thereof); or

"(B) the ratio which was in effect at the time that the finding of substantial deficiencies (referred to in subsection (a)) was made; and

"(7) provide for the protection of the interests of employees affected by actions under the reduction plan, including—

"(A) arrangements to preserve employee rights and benefits;

"(B) training and retraining of such employees where necessary;

"(C) redeployment of such employees to community settings under the reduction plan; and

"(D) making maximum efforts to guarantee the employment of such employees (but this requirement shall not be construed to guarantee the employment of any employee).

"(d)(1) The Secretary must provide for a period of not less than 30 days after the submission of a reduction plan by a State, during which comments on such reduction plan may be submitted to the Secretary, before the Secretary approves or disapproves such reduction plan.

"(2) If the Secretary approves more than 15 reduction plans under this section in any fiscal year, any reduction plans approved in addition to the first 15 such plans approved, must be for a facility (or part thereof) for which the costs of correcting the substantial deficiencies (referred to in subsection (a)) are $2,000,000 or greater (as demonstrated by the State to the satisfaction of the Secretary).

"(e)(1) If the Secretary, at the conclusion of the 6-month plan of correction described in subsection (a)(1), determines that the State has substantially failed to correct the deficiencies described in subsection (a), the Secretary may terminate the facility's provider agreement in accordance with the provisions of section 1910(c).

42 USC 1396i.
Penalties.

"(2) In the case of a reduction plan described in subsection (a)(2), if the Secretary determines, at the conclusion of the initial 6-month period or any 6-month interval thereafter, that the State has substantially failed to meet the requirements of subsection (c), the Secretary shall—

"(A) terminate the facility's provider agreement in accordance with the provisions of section 1910(c); or

"(B) if the State has failed to meet such requirements despite good faith efforts, disallow, for purposes of Federal financial participation, an amount equal to 5 percent of the cost of care for all eligible individuals in the facility for each month for which the State fails to meet such requirements.

"(f) The provisions of this section shall apply only to plans of correction and reduction plans approved by the Secretary within 3 years after the effective date of final regulations implementing this section.".

42 USC 1396r note.
Notice.

(b) EFFECTIVE DATE.—(1) The amendment made by this section shall become effective on the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to section 1919 of the Social Security Act within 60 days after the date of the enactment of this Act, and shall allow a period of 30 days for comment thereon prior to promulgating final regulations implementing such section.

42 USC 1396r note.

(c) REPORT.—The Secretary of Health and Human Services shall submit a report to the Congress on the implementation and results of section 1919 of the Social Security Act. Such report shall be submitted not later than 30 months after the effective date of final regulations promulgated to implement such section.

SEC. 9517. MODIFYING APPLICATION OF MEDICAID HMO PROVISIONS FOR CERTAIN HEALTH CENTERS.

(a) WAIVING APPLICATION OF 75 PERCENT RULE AND CERTAIN ORGANIZATIONAL REQUIREMENTS.—Section 1903(m)(2) of the Social Security Act (42 U.S.C. 1396b(m)(2)) is amended—

(1) in subparagraph (A), by striking out "(B) and (C)" and inserting in lieu thereof "(B), (C), and (G)";

(2) in subparagraph (F)—

Contract.

42 USC 300e-9.

(A) by striking out "(F)(i) In the case of a contract with a health maintenance organization described in clause (ii)" and inserting in lieu thereof "(F) in the case of a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii)";

(B) by striking out "such organization" and inserting in lieu thereof "such entity or organization"; and

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(C) by striking out clause (ii); and

(3) by adding at the end thereof the following new subparagraph:

42 USC 254b, 254c.

40 USC app. 1.

"(G) In the case of an entity which is receiving (and has received during the previous two years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965, clauses (i) and (ii) of subparagraph (A) shall not apply.".

(b) PERMITTING 6-MONTH CONTINUATION OF BENEFITS.—Section 1902(e)(2) of such Act (42 U.S.C. 1396a(e)(2)) is amended—

(1) in subparagraph (A)—

Ante, p. 215.

(A) by inserting "or with an entity described in section 1903(m)(2)(G)" after "Public Health Service Act)"; and

(B) by inserting "or entity" before the period; and

(2) in subparagraph (B)—

(A) by striking out "a health maintenance organization" and inserting in lieu thereof "an organization or entity"; and

(B) by inserting "or entity" after "the organization".

(c) HEALTH INSURING ORGANIZATIONS.—(1) Section 1903(m)(2)(A) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)) is amended, in the matter before clause (i)—

(1) by inserting "(including a health insuring organization)" after "any entity"; and

(2) by inserting "(directly or through arrangements with providers of services)" after "responsible for the provision".

42 USC 1396b note.

(2)(A) Except as provided in subparagraph (B), the amendments made by paragraph (1) shall apply to expenditures incurred for health insuring organizations which first become operational on or after January 1, 1986.

(B) In the case of a health insuring organization—

(i) which first becomes operational on or after January 1, 1986, but

(ii) for which the Secretary of Health and Human Services has waived, under section 1915(b) of the Social Security Act and before such date, certain requirements of section 1902 of such Act,

42 USC 1396n.

clauses (ii) and (iv) of section 1903(m)(2)(A) of such Act shall not apply during the period for which such waiver is effective.

SEC. 9518. EXTENSION OF MMIS DEADLINE.

(a) New Deadline.—Section 1903(r)(1)(B) of the Social Security Act (42 U.S.C. 1396b(r)(1)(B)) is amended by striking out "the earlier of" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "September 30, 1985.".

(b) Effective Date.—The amendment made by subsection (a) shall apply to payment under section 1903(a) of the Social Security Act for calendar quarters beginning on or after October 1, 1982.

42 USC 1396b note.

SEC. 9519. REPORT ON ADJUSTMENT IN MEDICAID PAYMENTS FOR HOSPITALS SERVING DISPROPORTIONATE NUMBERS OF LOW-INCOME PATIENTS.

The Secretary of Health and Human Services shall transmit to Congress, not later than October 1, 1986, a report that—

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(1) describes the methodology used by States under section 1902(a)(13)(A) of the Social Security Act, in their making payments to hospitals, in taking into account the situation of hospitals that serve a disproportionate number of low income patients with special needs;

42 USC 1396a.

(2) identifies each of those hospitals that have had the amount of their payments under that title adjusted under that section; and

(3) for each of those hospitals, describes the proportion of total inpatient-days attributable to low income patients and the proportion of total inpatient-days attributable to patients entitled to medical assistance under that title.

SEC. 9520. TASK FORCE ON TECHNOLOGY-DEPENDENT CHILDREN.

(a) Appointment of Task Force.—The Secretary of Health and Human Services, within six months after the date of the enactment of this Act, shall establish a task force concerning alternatives to institutional care for technology-dependent children (as defined in subsection (e)).

42 USC 1396a note.

(b) Membership.—The task force shall include representatives of Federal and State agencies with responsibilities relating to child health, health insurers, large employers (including those that self-insure for health care costs), providers of health care to technology-dependent children, and parents of technology-dependent children.

(c) Functions of Task Force.—The task force shall—

(1) identify barriers that prevent the provision of appropriate care in a home or community setting to meet the special needs of technology-dependent children; and

(2) recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

(d) Report.—The task force shall make a final report to the Secretary and to the Congress on its activities not later than two years after the date of the enactment of this Act.

(e) Definition.—In this section, the term "technology-dependent child" means a child who has a chronic illness which makes the child dependent upon the continuing use of medical care technology (such as a ventilator).

SEC. 9522. EXPANSION OF SERVICES UNDER DEMONSTRATION WAIVERS.

In the case of waivers granted to (or submitted during 1986 by) the State of Oregon under section 1915(b) of the Social Security Act, the

42 USC 1396n.

42 USC 1396b.

Secretary of Health and Human Services may waive the requirements of section 1903(m)(2)(A) of such Act with respect to any entity providing services under any such waiver if such entity does not provide more than 5 of the services listed in section 1903(m)(2)(A) of such Act, and does not provide inpatient hospital services.

SEC. 9523. EXTENSION OF TEXAS WAIVER PROJECT.

42 USC 1315.

(a) Renewed Approval.—Notwithstanding any limitations contained in section 1115 of the Social Security Act but subject to subsection (b) of this section, the Secretary of Health and Human Services, upon application, shall renew approval of demonstration project number 11-P-97473/6-06 ("Modifications under the Texas 100 STAT. 218 System of Care for the Elderly: Alternatives to the Institutionalized Aged"), previously approved under that section, until January 1, 1989.

(b) Terms and Conditions.—The Secretary's renewed approval of the project under subsection (a)—

(1) shall be on the same terms and conditions as applied to the project as of December 31, 1985; and

(2) shall remain in effect until such time as the Secretary finds that the applicant no longer complies with such terms and conditions.

SEC. 9524. WISCONSIN HEALTH MAINTENANCE ORGANIZATION WAIVER.

42 USC 1396n.
42 USC 1396b.
42 USC 1396a.

The waiver granted to the State of Wisconsin pursuant to section 1915(b) of the Social Security Act relating to the requirements of section 1903(m) of such Act in conjunction with a waiver of the requirements of section 1902(a)(23) of such Act shall, upon request by the State, be reinstated, and shall be renewable for terms of 2 years, subject to the showings required generally under section 1915(b) of such Act.

SEC. 9525. NEW JERSEY DEMONSTRATION PROJECT RELATING TO TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES.

42 USC 632a.

The Secretary of Health and Human Services shall continue for one additional year the demonstration project conducted by the State of New Jersey pursuant to section 966 of the Omnibus Reconciliation Act of 1980. Federal matching for such demonstration project shall be 50 percent.

SEC. 9526. REFERENCE TO PROVISIONS OF LAW PROVIDING COVERAGE UNDER, OR DIRECTLY AFFECTING, THE MEDICAID PROGRAM.

Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID PROGRAM

42 USC 1396s.

"Sec. 1920. (a) Authority or Requirements to Cover Additional Individuals.—For provisions of law which make additional individuals eligible for medical assistance under this title, see the following:

42 USC 602.

"(1) AFDC.—(A) Section 402(a)(37) of this Act (relating to individuals who lose AFDC eligibility due to increased earnings).

42 USC 606.

"(B) Section 406(h) of this Act (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

42 USC 614.

"(C) Section 414(g) of this Act (relating to certain individuals participating in work supplementation programs).

42 USC 1382h.

"(2) SSI.—Section 1619 of this Act (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

42 USC 673.

"(3) Foster care and adoption assistance.—Section 473(b) of this Act (relating to medical assistance for children in foster care and for adopted children).

"(4) Refugee assistance.—Section 412(e)(5) of the Immigration and Nationality Act (relating to medical assistance for certain refugees). 8 USC 1522.

"(5) Miscellaneous.—(A) Section 230 of Public Law 93-66 (relating to deeming eligible for medical assistance certain essential persons). 42 USC 1396a note.

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"(B) Section 231 of Public Law 93-66 (relating to deeming eligible for medical assistance certain persons in medical institutions). 42 USC 1396a note.

"(C) Section 232 of Public Law 93-66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons). 42 USC 1396a note.

"(D) Section 13(c) of Public Law 93-233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments). 42 USC 1396a note.

"(E) Section 503 of Public Law 94-566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits). 42 USC 1396a note.

"(F) Section 310(b)(1) of Public Law 96-272 (relating to continuing medicaid eligibility for certain recipients of Veterans' Administration pensions). 42 USC 1396a note.

"(b) Additional State Plan Requirements.—For other provisions of law that establish additional requirements for State plans to be approved under this title, see the following:

"(1) Section 1618 of this Act (relating to requirement for operation of certain State supplementation programs). 42 USC 1382g.

"(2) Section 212(a) of Public Law 93-66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).". 42 USC 1382 note.

SEC. 9527. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) Section 501(a)(4) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking out "children who are crippled or who are suffering from conditions leading to crippling" and inserting in lieu thereof "children who are 'children with special health care needs' or who are suffering from conditions leading to such status".

(b) Section 501(a) of such Act is amended by striking out "crippled children" in the matter following paragraph (4) and inserting in lieu thereof "children with special health care needs".

(c) Section 501(b)(1)(A) of such Act is amended by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(d) Section 502(a)(2)(B) of such Act is amended— 42 USC 702.

(1) by striking out "crippled children's programs" and inserting in lieu thereof "programs for children with special health care needs"; and

(2) by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(e) Sections 504(b)(1) and 509(b) of such Act are each amended by striking out "crippled children" and inserting in lieu thereof "children with special health care needs". 42 USC 704, 709.

SEC. 9528. ANNUAL CALCULATION OF FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

(a) Annual Calculation.—Section 1101(a)(8)(P) of the Social Security Act is amended— 42 USC 1301.

(1) by striking out "even-numbered"; and

(2) by striking out "eight quarters" and inserting in lieu thereof "four quarters".

(b) Effective Date.—The amendments made by this section shall apply to the Federal percentage (and Federal medical assistance 42 USC 1301 note.

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percentage) for fiscal years 1987 and thereafter. Such amendments shall apply without regard to the requirement of section 1101(a)(8)(B) of the Social Security Act relating to the promulgation of the Federal percentage prior to November 30 of the year preceding the year in which the new Federal percentage becomes applicable. The Secretary of Health and Human Services shall promulgate such new percentage for fiscal year 1987 as soon as practicable after the date of the enactment of this Act.

SEC. 9529. MEDICAID COVERAGE RELATING TO ADOPTION ASSISTANCE AND FOSTER CARE.

(a) STATE OF RESIDENCE.—(1) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by adding at the end thereof the following:

42 USC 673.
42 USC 606.
42 USC 601.

"For purposes of this title, any child who meets the requirements of paragraph (1) or (2) of section 473(b) shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of title IV in the State where such child resides.".

42 USC 1396a note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medical assistance furnished on or after the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

(b) ELIGIBILITY OF CERTAIN ADOPTED CHILDREN.—(1) Section 1902(a)(10)(A)(ii) of the Social Security Act, as amended by section 9505 of this Act, is amended—

(A) by striking out "or" at the end of subclause (VI);

(B) by striking out the semicolon at the end of subclause (VII) and inserting in lieu thereof ", or"; and

(C) by adding after subclause (VII) the following new subclause:

42 USC 1396d.

"(VIII) who is a child described in section 1905(a)(i)—

42 USC 670.

"(aa) for whom there is in effect an adoption assistance agreement (other than an agreement under part E of title IV) between the State and an adoptive parent or parents,

"(bb) who the State agency responsible for adoption assistance has determined cannot be placed with adoptive parents without medical assistance because such child has special needs for medical or rehabilitative care, and

"(cc) who was eligible for medical assistance under the State plan prior to the adoption assistance agreement being entered into, or who would have been eligible for medical assistance at such time if the eligibility standards and methodologies of the State's foster care program under part E of title IV were applied rather than the eligibility standards and methodologies of the State's aid to families with dependent children program under part A of title IV;".

42 USC 1396a note.

(2) In the case of an adoption assistance agreement (other than an agreement under part E of title IV of the Social Security Act) entered into before the date of the enactment of this Act—

(A) the requirements of subdivisions (aa) and (bb) of section 1902(a)(10)(A)(ii)(VIII) of the Social Security Act shall be deemed to be met if the State agency responsible for adoption assistance

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agreements determines that—

(i) at the time of adoptive placement the child had special needs for medical or rehabilitative care that made the child difficult to place; and

(ii) there is in effect with respect to such child an adoption assistance agreement between the State and an adoptive parent or parents; and

(B) the requirement of subdivision (cc) of such section shall be deemed to be met if the child was found by the State to be eligible for medical assistance prior to such agreement being entered into.

(3) This subsection, and the amendments made by this subsection, shall apply to adoption assistance agreements entered into before, on, or after the date of the enactment of this Act.

42 USC 1396a note.

Subtitle C—Task Force on Long-Term Health Care Policies

SEC. 9601. RECOMMENDATIONS FOR LONG-TERM HEALTH CARE POLICIES.

42 USC 1395b note.

(a) Establishment of Task Force.—(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall establish a Task Force on Long-Term Health Care Policies (hereinafter in this section referred to as the "Task Force"). The Task Force shall be established not later than 60 days after the date of the enactment of this Act and in consultation with the National Association of Insurance Commissioners.

(b) Composition of Task Force.—The Task Force shall be composed of 18 members, which shall include—

(1) two members representing the National Association of Insurance Commissioners,

(2) three members representing Federal and State agencies with responsibilities relating to health or the elderly,

(3) three members representing private insurers,

(4) three members from organizations representing consumers or the elderly, and

(5) three members from organizations representing providers of long-term health care services.

The Secretary shall designate a member of the Task Force as chair.

(c) Development of Recommendations.—The Task Force shall develop recommendations for long-term health care policies, including recommendations designed—

(1) to limit marketing and agent abuse for those policies,

(2) to assure the dissemination of such information to consumers as is necessary to permit informed choice in purchasing the policies and to reduce the purchase of unnecessary or duplicative coverage,

(3) to assure that benefits provided under the policies are reasonable in relationship to premiums charged, and

(4) to promote the development and availability of long-term health care policies which meet these recommendations.

(d) Report.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall report to the Secretary, to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate respecting—

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(1) the recommendations developed under subsection (c), including an explanation of the reasons for their selection, and

(2) such recommendations for additional activities respecting long-term health care policies as the Task Force finds appropriate.

The Secretary, in cooperation with the National Association of Insurance Commissioners, shall provide for the dissemination of the report to each of the States.

(e) Termination of Task Force.—The Task Force shall terminate 90 days after the date of submission of the report required under subsection (d).

(f) Reports of Secretary.—The Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate two reports on—

(1) actions taken by the States to implement the recommendations developed under this section and to recommend additional action; and

(2) recommendations for legislative and administrative action, if any, needed to respond to issues raised by the Task Force or to improve consumer protection with respect to long-term health care policies.

The first report shall be transmitted 18 months after the date the report is made under subsection (d), and the second report shall be transmitted 18 months later.

(g) Long-Term Health Care Policy Defined.—In this section, the term "long-term health care policy" means an insurance policy, or similar health benefits plan, which is designed for or marketed as providing (or making payments for) health care services (such as nursing home care and home health care) or related services (which may include home and community-based services), or both, over an extended period of time.

(h) Assurance of States' Jurisdiction.—Nothing in this section shall be construed as recommending Federal preemption of the States in overseeing the operation and regulation of insurance carriers in their respective jurisdictions.

TITLE X—PRIVATE HEALTH INSURANCE COVERAGE

SEC. 10001. EMPLOYERS REQUIRED TO PROVIDE CERTAIN EMPLOYEES AND FAMILY MEMBERS WITH CONTINUED HEALTH INSURANCE COVERAGE AT GROUP RATES (INTERNAL REVENUE CODE AMENDMENTS).

26 USC 162.

(a) Denial of Deduction for Employer Contribution to Plan.—Subsection (i) of section 162 of the Internal Revenue Code of 1954 (relating to deduction for trade or business expenses with respect to group health plans) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Plans must provide continuation coverage to certain individuals.—

"(A) In general.—No deduction shall be allowed under this section for expenses paid or incurred by an employer for any group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of subsection (k).

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"(B) Exception for certain small employers, etc.—Subparagraph (A) shall not apply to any plan described in section 106(b)(2).".

26 USC 106.

(b) Denial of Exclusion for Highly Compensated Individuals.—Section 106 of the Internal Revenue Code of 1954 (relating to contributions by employer to accident and health plans) is amended by inserting "(a) In General.—" before "Gross" and by inserting at the end thereof the following new subsection:

"(b) Exception for Highly Compensated Individuals Where Plan Fails To Provide Certain Continuation Coverage.—

"(1) In general.—Subsection (a) shall not apply to any amount contributed by an employer on behalf of a highly compensated individual (within the meaning of section 105(h)(5)) to a group health plan maintained by such employer unless all such plans maintained by such employer meet the continuing coverage requirements of section 162(k).

"(2) Exception for certain plans.—Paragraph (1) shall not apply to any—

"(A) group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(B) governmental plan (within the meaning of section 414(d)), or

"(C) church plan (within the meaning of section 414(e)). Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 (relating to employers under common control) shall apply for purposes of subparagraph (A).

"(3) GROUP HEALTH PLAN.—For purposes of this subsection, the term 'group health plan' has the meaning given such term by section 162(i)(3).".

(c) CONTINUATION COVERAGE REQUIREMENTS.—Section 162 of the Internal Revenue Code of 1954 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection: 26 USC 162.

"(k) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—For purposes of subsection (i)(2) and section 106(b)(1), a group health plan meets the requirements of this subsection only if each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM PERIOD.—In the case of—

"(I) a qualifying event described in paragraph (3)(B) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(II) any qualifying event not described in subclause (I), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(iv) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) a covered employee under any other group health plan, or

"(II) entitled to benefits under title XVIII of the Social Security Act. 42 USC 1395c.

"(v) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary:

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) **Clause (ii) not to apply where significant change.**—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) **Determination period.**—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) **Election.**—For purposes of this subsection—

"(A) **Election period.**—The term 'election period' means the period which—

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"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) **Effect of election on other beneficiaries.**—Except as otherwise specified in an election, any election by a qualified beneficiary described in clause (i)(I) or (ii) of paragraph (7)(B) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"(6) **Notice requirements.**—In accordance with regulations prescribed by the Secretary—

"(A) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(B) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event,

"(C) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3), and

"(D) the plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), or (D) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) DEFINITIONS.—For purposes of this subsection—

"(A) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer

"(B) QUALIFIED BENEFICIARY.—

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"(i) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(I) as the spouse of the covered employee, or

"(II) as the dependent child of the employee.

"(ii) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in paragraph (3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.". 29 USC 1002.

26 USC 162. (d) CONFORMING AMENDMENT.—Paragraph (1) of section 162(i) is amended by striking out "GENERAL RULE" in the heading thereof and inserting in lieu thereof "COVERAGE RELATING TO END STAGE RENAL DISEASE".

26 USC 106 note. (e) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 10002. TEMPORARY EXTENSION OF COVERAGE AT GROUP RATES FOR CERTAIN EMPLOYEES AND FAMILY MEMBERS (ERISA AMENDMENTS).

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new part:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

29 USC 1161.

"SEC. 601. PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

"(a) IN GENERAL.—The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year. Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of this subsection.

26 USC 52.

"SEC. 602. CONTINUATION COVERAGE.

29 USC 1162.

"For purposes of section 601, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 603(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

29 USC 1163.

"SEC. 603. QUALIFYING EVENT.

"For purposes of this part, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this part, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act. 42 USC 1395c.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

29 USC 1164.

"SEC. 604. APPLICABLE PREMIUM.

"For purposes of this part—

"(1) In general.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) Special rule for self-insured plans.—To the extent that a plan is a self-insured plan—

"(A) In general.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) Determination on basis of past cost.—If an administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by

"(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

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"(C) Subparagraph (b) not to apply where significant change.—An administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

"(3) Determination period.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

29 USC 1165.

"SEC. 605. ELECTION.

"For purposes of this part—

"(1) Election period.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 606(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 607(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 606. NOTICE REQUIREMENTS.

29 USC 1166.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the administrator of a qualifying event described in paragraph (1), (2), or (4) of section 603 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 603, and

"(4) the administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 603, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 603 where the covered employee notifies the administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"SEC. 607. DEFINITIONS.

29 USC 1167.

"For purposes of this part—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' means an employee welfare benefit plan that is a group health plan (within the meaning of section 162(i)(3) of the Internal Revenue Code of 1954).

26 USC 162.

"(2) COVERED EMPLOYEE.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in section 603(2), the term 'qualified beneficiary' includes the covered employee.

29 USC 1168.

"SEC. 608. REGULATIONS.

"The Secretary may prescribe regulations to carry out the provisions of this part.".

(b) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by inserting after "Any administrator" the following: "(1) who fails to meet the requirements of paragraph (1) or (4) of section 606 with respect to a participant or beneficiary, or (2)".

(c) CLERICAL AMENDMENTS.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 514 the following new items:

"PART 6—CONTINUATION COVERAGE UNDER GROUP HEALTH PLANS

"Sec. 601. Plans must provide continuation coverage to certain individuals.
"Sec. 602. Continuation coverage.
"Sec. 603. Qualifying event.
"Sec. 604. Applicable premium.
"Sec. 605. Election.
"Sec. 606. Notice requirements.
"Sec. 607. Definitions.
"Sec. 608. Regulations.".

29 USC 1161 note.

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—

Prohibition.

In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

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(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

Prohibition.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

29 USC 1166 note.
Ante, p. 231.
Ante, p. 227.
Ante, p. 230.

(e) NOTIFICATION TO COVERED EMPLOYEES.—At the time that the amendments made by this section apply to a group health plan (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle B of title I of such Act. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 606(1) of such Act with respect to such individuals.

SEC. 10003. CONTINUATION OF HEALTH INSURANCE FOR STATE AND LOCAL EMPLOYEES WHO LOST EMPLOYMENT-RELATED COVERAGE (PUBLIC HEALTH SERVICE ACT AMENDMENTS).

(a) IN GENERAL.—The Public Health Service Act is amended by adding at the end the following new title:

"TITLE XXII—REQUIREMENTS FOR CERTAIN GROUP HEALTH PLANS FOR CERTAIN STATE AND LOCAL EMPLOYEES

"SEC. 2201. STATE AND LOCAL GOVERNMENTAL GROUP HEALTH PLANS MUST PROVIDE CONTINUATION COVERAGE TO CERTAIN INDIVIDUALS.

42 USC 300bb-1.

"(a) IN GENERAL.—In accordance with regulations which the Secretary shall prescribe, each group health plan that is maintained by any State that receives funds under this Act, by any political subdivision of such a State, or by any agency or instrumentality of such a State or political subdivision, shall provide, in accordance with this title, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

"(b) EXCEPTION FOR CERTAIN PLANS.—Subsection (a) shall not apply to—

"(1) any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year, or

"(2) any group health plan maintained for employees by the government of the District of Columbia or any territory or possession of the United States or any agency or instrumentality.

District of Columbia.

Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of the Internal Revenue Code of 1954 (relating to employers under common control) shall apply for purposes of paragraph (1).

26 USC 52.

100 STAT. 233

"SEC. 2202. CONTINUATION COVERAGE.

42 USC 300bb-2.

"For purposes of section 2201, the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(1) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred.

"(2) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(A) MAXIMUM PERIOD.—In the case of—

"(i) a qualifying event described in section 2203(2) (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

"(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.

"(B) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(C) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary.

"(D) REEMPLOYMENT OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(i) a covered employee under any other group health plan, or

"(ii) entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.

"(E) REMARRIAGE OF SPOUSE.—In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.

"(3) Premium requirements.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(A) shall not exceed 102 percent of the applicable premium for such period, and

"(B) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(4) No requirement of insurability.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(5) Conversion option.—In the case of a qualified beneficiary whose period of continuation coverage expires under paragraph (2)(A), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

100 STAT 234

42 USC 300bb-3.

"SEC. 2203. QUALIFYING EVENT.

"For purposes of this title; the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this title, would result in the loss of coverage of a qualified beneficiary:

"(1) The death of the covered employee.

"(2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(3) The divorce or legal separation of the covered employee from the employee's spouse.

"(4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

42 USC 1395c.
Children and youth.

"(5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

42 USC 300bb-4.

"SEC. 2204. APPLICABLE PREMIUM.

"For purposes of this title—

"(1) In general.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(2) Special rule for self-insured plans.—To the extent that a plan is a self-insured plan—

"(A) In general.—Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(i) is determined on an actuarial basis, and

"(ii) takes into account such factors as the Secretary may prescribe in regulations.

"(B) Determination on basis of past cost.—If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by "(ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(C) SUBPARAGRAPH (B) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

100 STAT. 235

"(3) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"SEC. 2205. ELECTION.

42 USC 300bb-5.

"For purposes of this title—

"(1) ELECTION PERIOD.—The term 'election period' means the period which—

"(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(B) is of at least 60 days' duration, and

"(C) ends not earlier than 60 days after the later of—

"(i) the date described in subparagraph (A), or

"(ii) in the case of any qualified beneficiary who receives notice under section 2206(4), the date of such notice.

"(2) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 2208(3) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event.

"SEC. 2206. NOTICE REQUIREMENTS.

42 USC 300bb-6.

"In accordance with regulations prescribed by the Secretary—

"(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

"(2) the employer of an employee under a plan must notify the plan administrator of a qualifying event described in paragraph (1), (2), or (4) of section 2203 within 30 days of the date of the qualifying event,

"(3) each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 2203, and

"(4) the plan administrator shall notify—

"(A) in the case of a qualifying event described in paragraph (1), (2), or (4) of section 2203, any qualified beneficiary with respect to such event, and

"(B) in the case of a qualifying event described in paragraph (3) or (5) of section 2203 where the covered employee notifies the plan administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of paragraph (4), any notification shall be made within 14 days of the date on which the plan administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

100 STAT. 236

42 USC 300bb-7.

"**SEC. 2207. ENFORCEMENT.**

"Any individual who is aggrieved by the failure of a State, political subdivision, or agency or instrumentality thereof, to comply with the requirements of this title may bring an action for appropriate equitable relief.

42 USC 300bb-8.

"**SEC. 2208. DEFINITIONS.**

"For purposes of this title—

Health and medical care.

"(1) Group health plan.—The term 'group health plan' has the meaning given such term in section 162(i)(3) of the Internal Revenue Code of 1954.

26 USC 162.

"(2) Covered employee.—The term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(3) Qualified beneficiary.—

"(A) In general.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) Special rule for terminations and reduced employment.—In the case of a qualifying event described in section 2203(2), the term 'qualified beneficiary' includes the covered employee.

"(4) Plan administrator.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974."

29 USC 1002.

42 USC 300bb-1 note.

(b) Effective Dates.—

(1) General rule.—The amendments made by this section shall apply to plan years beginning on or after July 1, 1986.

(2) Special rule for collective bargaining agreements.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

42 USC 300bb-6 note.

(c) Notification to Covered Employees.—At the time that the amendments made by this section apply to a group health plan (covered under section 2201 of the Public Health Service Act), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under title XXII of such Act. The notice furnished under this subsection is in lieu of notice that may other-

Ante, p. 232.

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wise be required under section 2206(1) of such Act with respect to such individuals.

TITLE XI—SINGLE-EMPLOYER PLAN TERMINATION INSURANCE SYSTEM AMENDMENTS

Single-Employer Pension Plan Amendments Act of 1986.

SEC. 11001. SHORT TITLE AND TABLE OF CONTENTS.

29 USC 1001 note.

This title may be cited as "Single-Employer Pension Plan Amendments Act of 1986".

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SEC. 11002. FINDINGS AND DECLARATION OF POLICY.

29 USC 1001b.

(a) FINDINGS.—The Congress finds that—

(1) single-employer defined benefit pension plans have a substantial impact on interstate commerce and are affected with a national interest;

(2) the continued well-being and retirement income security of millions of workers, retirees, and their dependents are directly affected by such plans;

(3) the existence of a sound termination insurance system is fundamental to the retirement income security of participants and beneficiaries of such plans; and

(4) the current termination insurance system in some instances encourages employers to terminate pension plans, evade their obligations to pay benefits, and shift unfunded pension liabilities onto the termination insurance system and the other premium-payers.

(b) ADDITIONAL FINDINGS.—The Congress further finds that modification of the current termination insurance system and an increase in the insurance premium for single-employer defined benefit pension plans—

(1) is desirable to increase the likelihood that full benefits will be paid to participants and beneficiaries of such plans;

100 STAT. 238

(2) is desirable to provide for the transfer of liabilities to the termination insurance system only in cases of severe hardship;

(3) is necessary to maintain the premium costs of such system at a reasonable level; and

(4) is necessary to finance properly current funding deficiencies and future obligations of the single-employer pension plan termination insurance system.

Commerce and trade.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this title—

(1) to foster and facilitate interstate commerce;

(2) to encourage the maintenance and growth of single-employer defined benefit pension plans;

(3) to increase the likelihood that participants and beneficiaries under single-employer defined benefit pension plans will receive their full benefits;

(4) to provide for the transfer of unfunded pension liabilities onto the single-employer pension plan termination insurance system only in cases of severe hardship;

(5) to maintain the premium costs of such system at a reasonable level; and

(6) to assure the prudent financing of current funding deficiencies and future obligations of the single-employer pension plan termination insurance system by increasing termination insurance premiums.

SEC. 11003. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974, unless otherwise specified.

SEC. 11004. DEFINITIONS.

(a) IN GENERAL.—Section 4001(a) (29 U.S.C. 1301(a)) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) 'substantial employer', for any plan year of a single-employer plan, means one or more persons—

"(A) who are contributing sponsors of the plan in such plan year,

"(B) who, at any time during such plan year, are members of the same controlled group, and

"(C) whose required contributions to the plan for each plan year constituting one of—

"(i) the two immediately preceding plan years, or

"(ii) the first two of the three immediately preceding plan years,

total an amount greater than or equal to 10 percent of all contributions required to be paid to or under the plan for such plan year;";

(2) in paragraph (11), by striking out "and";

(3) in paragraph (12), by striking out "corporation." and inserting in lieu thereof "corporation;"; and

(4) by adding after paragraph (12) the following new paragraphs:

"(13) 'contributing sponsor', of a single-employer plan, means a person— 100 STAT. 239

"(A) who is responsible, in connection with such plan, for meeting the funding requirements under section 302 of this Act or section 412 of the Internal Revenue Code of 1954, or

29 USC 1112.
26 USC 412.

"(B) who is a member of the controlled group of a person described in subparagraph (A), has been responsible for meeting such funding requirements, and has employed a significant number (as may be defined in regulations of the corporation) of participants under such plan while such person was so responsible;

"(14) in the case of a single-employer plan—

"(A) 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person; and

"(B) the determination of whether two or more persons are under 'common control' shall be made under regulations of the corporation which are consistent and coextensive with regulations prescribed for similar purposes by the Secretary of the Treasury under subsections (b) and (c) of section 414 of the Internal Revenue Code of 1954;

26 USC 414.

"(15) 'single-employer plan' means any defined benefit plan (as defined in section 3(35)) which is not a multiemployer plan;

29 USC 1002.

"(16) 'benefit commitments', to a participant or beneficiary as of any date under a single-employer plan, means all benefits provided by the plan with respect to the participant or beneficiary which—

"(A) are guaranteed under section 4022, 29 USC 1322.

"(B) would be guaranteed under section 4022, but for the operation of subsection 4022(b), or

"(C) constitute—

"(i) early retirement supplements or subsidies, or

"(ii) plant closing benefits,

irrespective of whether any such supplements, subsidies, or benefits are benefits guaranteed under section 4022, if the participant or beneficiary has satisfied, as of such date, all of the conditions required of him or her under the provisions of the plan to establish entitlement to the benefits, except for the submission of a formal application, retirement, completion of a required waiting period subsequent to application for benefits, or designation of a beneficiary;

"(17) 'amount of unfunded guaranteed benefits', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of the participant or beneficiary under the plan which are guaranteed under section 4022, over 29 USC 1344.

"(B) the current value (as of such date) of the assets of the plan which are required to be allocated to those benefits under section 4044; 29 USC 1344.

"(18) 'amount of unfunded benefit commitments', of a participant or beneficiary as of any date under a single-employer plan, means an amount equal to the excess of—

"(A) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments to the participant or beneficiary under the plan, over 100 STAT. 240

"(B) the current value (as of such date) of the assets of the plan which are required to be allocated to those benefit commitments under section 4044; 29 USC 1344.

"(19) 'outstanding amount of benefit commitments', of a participant or beneficiary under a terminated single-employer plan, means the excess of—

"(A) the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefit commitments to such participant or beneficiary under the plan, over

"(B) the actuarial present value (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of the benefits of such participant or beneficiary which are guaranteed under section 4022 or to which assets of the plan are required to be allocated under section 4044; 29 USC 1322.

"(20) 'person' has the meaning set forth in section 3(9); 29 USC 1002.

"(21) 'affected party' means, with respect to a plan—

"(A) each participant in the plan,

"(B) each beneficiary under the plan who is a beneficiary of a deceased participant or who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)), 29 USC 1056.

"(C) each employee organization representing participants in the plan, and

"(D) the corporation,

except that, in connection with any notice required to be provided to the affected party, if an affected party has designated, in writing, a person to receive such notice on behalf of the affected party, any reference to the affected party shall be construed to refer to such person.".

29 USC 1301.

29 USC 1301.

(b) Technical Correction of Error in Multiemployer Pension Plan Amendments Act of 1980.—Section 4001 is further amended by striking out the amendments made by section 402(a)(1)(F) of the Multiemployer Pension Plan Amendments Act of 1980 (94 Stat. 1297) (adding new paragraphs after a subsection (c)(1)), and, in lieu thereof, in subsection (b), by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraph:

"(2) For purposes of subtitle E—

26 USC 412.

"(A) except as otherwise provided in subtitle E, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954 (determined, in the case of a terminated plan, as if the plan had continued beyond the termination date), and

"(B) the term 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.".

SEC. 11005. SINGLE-EMPLOYER PLAN TERMINATION INSURANCE PREMIUMS.

(a) Premium Increase.—

100 STAT. 241

(1) General rule.—Section 4006(a)(3)(A)(i) (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking out "for plan years beginning after December 31, 1977, an amount equal to $2.60" and inserting in lieu thereof "for plan years beginning after December 31, 1985, an amount equal to $8.50".

(2) Conforming amendment with respect to plan years after 1977.—Section 4006(c)(1) (29 U.S.C. 1306(c)(1)) is amended by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) in the case of each plan which was not a multiemployer plan in a plan year—

"(i) with respect to each plan year beginning before January 1, 1978, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(ii) with respect to each plan year beginning after December 31, 1977, an amount equal to $2.60 for each individual who was a participant in such plan during the plan year, and".

(b) Incorporation of Certain Former Provisions in Lieu of Cross Reference Thereto.—Section 4006(a) (29 U.S.C. 1306(a)) is amended—

(1) in paragraph (1), by striking out the last sentence; and

(2) by adding at the end thereof the following new paragraph:

29 USC 1322.

"(6)(A) In carrying out its authority under paragraph (1) to establish premium rates and bases for basic benefits guaranteed under section 4022 with respect to single-employer plans, the corporation shall establish such rates and bases in coverage schedules in accordance with the provisions of this paragraph.

"(B) The corporation may establish annual premiums for single-employer plans composed of the sum of—

"(i) a charge based on a rate applicable to the excess, if any, of the present value of the basic benefits of the plan which are guaranteed over the value of the assets of the plan, not in excess of 0.1 percent, and

"(ii) an additional charge based on a rate applicable to the present value of the basic benefits of the plan which are guaranteed.

The rate for the additional charge referred to in clause (ii) shall be set by the corporation for every year at a level which the corporation estimates will yield total revenue approximately equal to the total revenue to be derived by the corporation from the charges referred to in clause (i) of this subparagraph.

"(C) The corporation may establish annual premiums for single-employer plans based on—

"(i) the number of participants in a plan, but such premium rates shall not exceed the rates described in paragraph (3),

"(ii) unfunded basic benefits guaranteed under this title, but such premium rates shall not exceed the limitations applicable to charges referred to in subparagraph (B)(i), or

"(iii) total guaranteed basic benefits, but such premium rates shall not exceed the rates for additional charges referred to in subparagraph (B)(ii).

If the corporation uses two or more of the rate bases described in this subparagraph, the premium rates shall be designed to produce approximately equal amounts of aggregate premium revenue from each of the rate bases used.

"(D) For purposes of this paragraph, the corporation shall by regulation define the terms 'value of assets' and 'present value of the benefits of the plan which are guaranteed' in a manner consistent with the purposes of this title and the provisions of this section.".

100 STAT. 242

(c) Approval by Joint Resolution of Recommendations of the Pension Benefit Guaranty Corporation.—Title IV is amended as follows:

(1) The last sentence of subsection (a)(2) of section 4006 (29 U.S.C. 1306(a)(2)) is amended by striking out "the Congress approves such revised schedule by a concurrent resolution" and inserting in lieu thereof "a joint resolution approving such revised schedule is enacted".

(2) Subsection (a)(4) of section 4006 (29 U.S.C. 1306(a)(4)) is amended by striking out "approval by the Congress" and inserting in lieu thereof "the enactment of a joint resolution".

(3) Subsection (b)(3) of section 4006 (29 U.S.C. 1306(b)(3)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" before the period preceding the quotation marks.

(4) Subsection (f)(2)(B) of section 4022A (29 U.S.C. 1322a(f)(2)(B)) is amended by striking out "Congress by concurrent resolution" and inserting in lieu thereof "the enactment of a joint resolution".

(5) Subsection (f)(2)(C) of section 4022A (29 U.S.C. 1322a(f)(2)(C)) is amended by striking out "approved" and inserting in lieu thereof "so enacted".

(6) Subsection (f)(3)(B) of section 4022A (29 U.S.C. 1322a(f)(3)(A)) is amended by striking out "Congress by a concurrent resolution" and inserting in lieu thereof "enactment of a joint resolution".

(7) Subsection (f)(4)(A) of section 4022A (29 U.S.C. 1322a(f)(4)(A)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(8) Subsection (f)(4)(B) of section 4022A (29 U.S.C. 1322a(f)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress favors the" and inserting in lieu thereof "The", and by inserting "is hereby approved" immediately before the period preceding the quotation marks.

(9) Subsection (f)(4)(C) of section 4022A (29 U.S.C. 1322a(f)(4)(C)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

(10) Subsection (g)(4)(A)(ii) of section 4022A (29 U.S.C. 1322a(g)(4)(A)(ii)) is amended by striking out "concurrent" and inserting in lieu thereof "joint", and by striking out "adopted" and inserting in lieu thereof "enacted".

(11) Subsection (g)(4)(B) of section 4022A (29 U.S.C. 1322a(g)(4)(B)) is amended by striking out "concurrent" each place it appears and inserting in lieu thereof "joint", by striking out "That the Congress disapproves the" and inserting in lieu thereof "The", and by inserting "is hereby disapproved" immediately before the period preceding the quotation marks.

(12) Subsection (g)(4)(D) of section 4022A (29 U.S.C. 1322a(g)(4)(D)) is amended by striking out "concurrent" and inserting in lieu thereof "joint".

42 USC 1306 note.

(d) **Effective Dates.**—

(1) **General rule.**—Except as provided in paragraph (2), the amendments made by this section shall be effective for plan years commencing after December 31, 1985.

(2) **Special rule.**—The amendments made by subsection (b) shall be effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

29 USC 1001 note.
42 USC 1306 note.

(e) **Transitional Rule.**—

(1) **Notice of premium increase.**—Not later than 30 days after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall send a notice to the plan administrator of each single-employer plan affected by the premium increase established by the amendment made by subsection (a)(1). Such notice shall describe such increase and the requirements of this subsection.

(2) **Due date for unpaid premiums.**—With respect to any plan year beginning during the period beginning on January 1, 1986, and ending 30 days after the date of the enactment of this Act, any unpaid amount of such premium increase shall be due and payable no later than the earlier of 60 days after the date of the enactment of this Act or 30 days after the date on which the notice required by paragraph (1) is sent, except that in no event shall the amount of the premium increase established under the amendment made by subsection (a)(1) be due and payable for a plan year earlier than the date on which premiums for the plan would have been due for such plan year had this Act not been enacted.

(3) **Enforcement.**—For purposes of enforcement, the requirements of paragraphs (1) and (2) shall be considered to be requirements of sections 4006 and 4007 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306 and 1307).

SEC. 11006. NOTICE OF SIGNIFICANT REDUCTION IN BENEFIT ACCRUALS.

(a) **In General.**—Section 204 (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) A single-employer plan may not be amended so as to provide for a significant reduction in the rate of future benefit accrual, unless, after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment, the plan administrator provides a written notice, setting forth the plan amendment and its effective date, to—

"(1) each participant in the plan,

29 USC 1056.

"(2) each beneficiary who is an alternate payee (within the meaning of section 206(d)(3)(K)) under an applicable qualified domestic relations order (within the meaning of section 206(d)(3)(B)(i)), and

"(3) each employee organization representing participants in the plan,

except that such notice shall instead be provided to a person designated, in writing, to receive such notice on behalf of any person referred to in paragraph (1), (2), or (3).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to plan amendments adopted on or after January 1, 1986, except that, in the case of plan amendments adopted on or after January 1, 1986, and on or before the date of the enactment of this Act, the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be treated as met if the written notice required under such section 204(h) is provided before 60 days after the date of the enactment of this Act.

29 USC 1054 note.

100 STAT. 244

SEC. 11007. GENERAL REQUIREMENTS RELATING TO TERMINATION OF SINGLE-EMPLOYER PLANS BY PLAN ADMINISTRATORS.

(a) IN GENERAL.—Section 4041 (29 U.S.C. 1341) is amended by striking out subsections (a) through (c) and inserting in lieu thereof the following:

"SEC. 4041. (a) GENERAL RULES GOVERNING SINGLE-EMPLOYER PLAN TERMINATIONS.—

"(1) EXCLUSIVE MEANS OF PLAN TERMINATION.—Except in the case of a termination for which proceedings are otherwise instituted by the corporation as provided in section 4042, a single-employer plan may be terminated only in a standard termination under subsection (b) or a distress termination under subsection (c).

Post, p. 253.

"(2) 60-DAY NOTICE OF INTENT TO TERMINATE.—Not less than 60 days before the proposed termination date of a standard termination under subsection (b) or a distress termination under subsection (c), the plan administrator shall provide to each affected party (other than the corporation in the case of a standard termination) a written notice of intent to terminate stating that such termination is intended and the proposed termination date. The written notice shall include any related additional information required in regulations of the corporation.

"(3) ADHERENCE TO COLLECTIVE BARGAINING AGREEMENTS.—The corporation shall not proceed with a termination of a plan under this section if the termination would violate the terms and conditions of an existing collective bargaining agreement. Nothing in the preceding sentence shall be construed as limiting the authority of the corporation to institute proceedings to involuntarily terminate a plan under section 4042.".

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(b) DEFINITIONS RELATING TO SUFFICIENCY.—Section 4041(d) (29 U.S.C. 1341(d)) is amended to read as follows:

"(d) SUFFICIENCY.—For purposes of this section—

"(1) SUFFICIENCY FOR BENEFIT COMMITMENTS.—A single-employer plan is sufficient for benefit commitments if there is no amount of unfunded benefit commitments under the plan.

"(2) SUFFICIENCY FOR GUARANTEED BENEFITS.—A single-employer plan is sufficient for guaranteed benefits if there is no amount of unfunded guaranteed benefits under the plan.".

SEC. 11008. STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by section 11007 of this Act) is further amended by inserting after subsection (a) the following new subsection:

"(b) STANDARD TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) GENERAL REQUIREMENTS.—A single-employer plan may terminate under a standard termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraphs (A) and (B) of paragraph (2) are met,

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"(C) the corporation does not issue a notice of noncompliance under subparagraph (C) of paragraph (2), and

"(D) when the final distribution of assets occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(2) TERMINATION PROCEDURE.—

"(A) NOTICE TO THE CORPORATION.—As soon as practicable after the date on which the notice of intent to terminate is provided pursuant to subsection (a)(2), the plan administrator shall send a notice to the corporation setting forth—

"(i) certification by an enrolled actuary—

"(I) of the projected amount of the assets of the plan (as of a proposed date of final distribution of assets),

"(II) of the actuarial present value (as of such date) of the benefit commitments (determined as of the proposed termination date) under the plan, and

"(III) that the plan is projected to be sufficient (as of such proposed date of final distribution) for such benefit commitments,

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"(ii) such information as the corporation may prescribe in regulations as necessary to enable the corporation to make determinations under subparagraph (C), and

"(iii) certification by the plan administrator that the information on which the enrolled actuary based the certification under clause (i) and the information provided to the corporation under clause (ii) are accurate and complete.

"(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES OF BENEFIT COMMITMENTS.—No later than the date on which a notice is sent by the plan administrator under subparagraph (A), the plan administrator shall send a notice to each person who is a participant or beneficiary under the plan—

"(i) specifying the amount of such person's benefit commitments (if any) as of the proposed termination date and the benefit form on the basis of which such amount is determined, and

"(ii) including the following information used in determining such benefit commitments:

"(I) the length of service,

"(II) the age of the participant or beneficiary,

"(III) wages,

"(IV) the assumptions, including the interest rate, and

"(V) such other information as the corporation may require.

Such notice shall be written in such manner as is likely to be understood by the participant or beneficiary and as may be prescribed in regulations of the corporation.

"(C) NOTICE FROM THE CORPORATION OF NONCOMPLIANCE.—

"(i) IN GENERAL.—Within 60 days after receipt of the notice under subparagraph (A), the corporation shall issue a notice of noncompliance to the plan administrator if—

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"(I) it has reason to believe that any requirement of subsection (a)(2) or subparagraph (A) or (B) has not been met, or

"(II) it otherwise determines, on the basis of information provided by affected parties or otherwise obtained by the corporation, that there is reason to believe that the plan is not sufficient for benefit commitments.

"(ii) Extension.—The corporation and the plan administrator may agree to extend the 60-day period referred to in clause (i) by a written agreement signed by the corporation and the plan administrator before the expiration of the 60-day period. The 60-day period shall be extended as provided in the agreement and may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 60-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

"(D) Final distribution of assets in absence of notice of noncompliance.—The plan administrator shall commence the final distribution of assets pursuant to the standard termination of the plan as soon as practicable after the expiration of the 60-day (or extended) period referred to in subparagraph (C), but such final distribution may occur only if—

"(i) the plan administrator has not received during such period a notice of noncompliance from the corporation under subparagraph (C), and

"(ii) when such final distribution occurs, the plan is sufficient for benefit commitments (determined as of the termination date).

"(3) Methods of final distribution of assets.—

"(A) In general.—In connection with any final distribution of assets pursuant to the standard termination of the plan under this subsection, the plan administrator shall distribute the assets in accordance with section 4044. In distributing such assets, the plan administrator shall— 29 USC 1344.

"(i) purchase irrevocable commitments from an insurer to provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are required to be allocated under section 4044, or

"(ii) in accordance with the provisions of the plan and any applicable regulations of the corporation, otherwise fully provide the benefit commitments under the plan and all other benefits (if any) under the plan to which assets are required to be allocated under section 4044.

"(B) Certification to the corporation of final distribution of assets.—Within 30 days after the final distribution of assets is completed pursuant to the standard termination of the plan under this subsection, the plan administrator shall send a notice to the corporation certifying that the assets of the plan have been distributed in 100 STAT. 247 accordance with the provisions of subparagraph (A) so as to pay the benefit commitments under the plan and all other benefits under the plan to which assets are required to be allocated under section 4044. 29 USC 1344.

"(4) Continuing authority.—Nothing in this section shall be construed to preclude the continued exercise by the corporation, after the termination date of a plan terminated in a standard termination under this subsection, of its authority under section 4003 with respect to matters relating to the termination. A certification under paragraph (3)(B) shall not affect the corporation's obligations under section 4022.". 29 USC 1303. 29 USC 1322.

(b) Conforming Amendment.—Section 4041(f) (29 U.S.C. 1341(f)) is amended to read as follows:

"(f) Limitation on the Conversion of a Defined Benefit Plan to a Defined Contribution Plan.—The adoption of an amendment to a plan which causes the plan to become a plan described in

29 USC 1321. section 4021(b)(1) constitutes a termination of the plan. Such an amendment may take effect only after the plan satisfies the requirements for standard termination under subsection (b) or distress termination under subsection (c).".

29 USC 1341 note. *Ante*, p. 244. (c) AUTHORITY FOR 60-DAY EXTENSION.—In the case of a standard termination of a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this section) with respect to which a notice of intent to terminate is filed before 120 days after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation may, without the consent of the plan administrator, extend the 60-day period under section 4041(b)(2)(C)(i) of such Act (as so amended) for a period not to exceed 60 days.

29 USC 1341 note. (d) SPECIAL TEMPORARY RULE.—

(1) REQUIREMENTS TO BE MET BEFORE FINAL DISTRIBUTION OF ASSETS.—In the case of the termination of a single-employer plan described in paragraph (2) with respect to which the amount payable to the employer pursuant to section 4044(d) exceeds $1,000,000 (determined as of the proposed date of final distribution of assets), the final distribution of assets pursuant to such termination may not occur unless the Pension Benefit Guaranty Corporation— 29 USC 1344.

(A) determines that the assets of the plan are sufficient for benefit commitments (within the meaning of section 4041(d)(1) of the Employee Retirement Income Security Act of 1974 (as amended by section 11007)) under the plan, and

(B) issues to the plan administrator a written notice setting forth the determination described in subparagraph (A).

(2) PLANS TO WHICH SUBSECTION APPLIES.—A single-employer plan is described in this paragraph if—

(A) the plan administrator has filed a notice of intent to terminate with the Pension Benefit Guaranty Corporation, and—

(i) the filing was made before January 1, 1986, and the Corporation has not issued a notice of sufficiency for such plan before the date of the enactment of this Act, or

(ii) the filing is made on or after January 1, 1986, and before 60 days after the date of the enactment of this Act and the Corporation has not issued a notice of sufficiency for such plan before the date of the enactment of this Act, and

(B) of the persons who are (as of the termination date) participants in the plan, the lesser of 10 percent or 200 have filed complaints with the Corporation regarding such termination—

(i) in the case of plans described in subparagraph (A)(i), before 15 days after the date of the enactment of this Act, or

(ii) in any other case, before the later of 15 days after the date of the enactment of this Act or 45 days after the date of the filing of such notice.

(3) CONSIDERATION OF COMPLAINTS.—The Corporation shall consider and respond to such complaints not later than 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A). The Corporation may hold informal hearings to expedite consideration of such complaints. Any such hearing shall be exempt from the requirements of chapter 5 of title 5, United States Code. 5 USC 500 *et seq.*

(4) DELAY ON ISSUANCE OF NOTICE.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the Corporation shall not issue any notice described in paragraph (1)(B) until 90 days after the date on which the Corporation makes the determination described in paragraph (1)(A).

(B) EXCEPTION IN CASES OF SUBSTANTIAL BUSINESS HARDSHIP.—Except in the case of an acquisition, takeover, or leveraged buyout, the preceding provisions of this subsection shall not apply if the contributing sponsor demonstrates to the satisfaction of the Corporation that the contributing sponsor is experiencing substantial business hardship. For purposes of this subparagraph, a contributing sponsor shall be considered as experiencing substantial business hardship if the contributing sponsor has been operating, and can demonstrate that the contributing sponsor will continue to operate, at an economic loss.

SEC. 11009. DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.

(a) IN GENERAL.—Section 4041 (as amended by sections 11007 and 11008 of this Act) is further amended by inserting after subsection (b) the following new subsection: 29 USC 1341.

"(c) DISTRESS TERMINATION OF SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—A single-employer plan may terminate under a distress termination only if—

"(A) the plan administrator provides the 60-day advance notice of intent to terminate to affected parties required under subsection (a)(2),

"(B) the requirements of subparagraph (A) of paragraph (2) are met, and

"(C) the corporation determines that the requirements of subparagraph (B) of paragraph (2) are met.

"(2) TERMINATION REQUIREMENTS.—

"(A) INFORMATION SUBMITTED TO THE CORPORATION.—As soon as practicable after the date on which the notice of intent to terminate is provided pursuant to subsection (a)(2), the plan administrator shall provide the corporation, in such form as may be prescribed by the corporation in regulations, the following information: Regulations. 100 STAT. 249

"(i) such information as the corporation may prescribe by regulation as necessary to make determinations under subparagraph (B) and paragraph (3);

"(ii) certification by an enrolled actuary of—

"(I) the amount (as of the proposed termination date) of the current value of the assets of the plan,

"(II) the actuarial present value (as of such date) of the benefit commitments under the plan,

"(III) whether the plan is sufficient for benefit commitments as of such date,

"(IV) the actuarial present value (as of such date) of benefits under the plan guaranteed under section 4022, and 29 USC 1322.

"(V) whether the plan is sufficient for guaranteed benefits as of such date;

"(iii) in any case in which the plan is not sufficient for benefit commitments as of such date—

"(I) the name and address of each participant and beneficiary under the plan as of such date, and

"(II) such other information as shall be prescribed by the corporation by regulation as necessary to enable the corporation (or its designee under section 4049(b)) to be able to make payments to participants and beneficiaries as required under section 4049; and *Post*, p. 258.

"(iv) certification by the plan administrator that the information on which the enrolled actuary based the certifications under clause (ii) and the information provided to the corporation under clauses (i) and (iii) are accurate and complete.

"(B) Determination by the corporation of necessary distress criteria.—Upon receipt of the notice of intent to terminate required under subsection (a)(2) and the information required under subparagraph (A), the corporation shall determine whether the requirements of this subparagraph are met as provided in clause (i), (ii), or (iii). The requirements of this subparagraph are met if each person who is (as of the termination date) a contributing sponsor of such plan or a substantial member of such sponsor's controlled group meets the requirements of any of the following clauses:

"(i) Liquidation in bankruptcy or insolvency proceedings.—The requirements of this clause are met by a person if—

"(I) such person has filed or has had filed against such person, as of the termination date, a petition seeking liquidation in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State, and

"(II) such case has not, as of the termination date, been dismissed.

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"(ii) Reorganization in bankruptcy or insolvency proceedings.—The requirements of this clause are met by a person if—

"(I) such person has filed, or has had filed against such person, as of the termination date, a petition seeking reorganization in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or a case described in clause (i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought),

"(II) such case has not, as of the termination date, been dismissed, and

"(III) the bankruptcy court (or other appropriate court in a case under such similar law of a State or political subdivision) approves the termination.

"(iii) Termination required to enable payment of debts while staying in business or to avoid unreasonably burdensome pension costs caused by declining workforce.—The requirements of this clause are met by a person if such person demonstrates to the satisfaction of the corporation that—

"(I) unless a distress termination occurs, such person will be unable to pay such person's debts when due and will be unable to continue in business, or

"(II) the costs of providing pension coverage have become unreasonably burdensome to such person, solely as a result of a decline of such person's workforce covered as participants under all single-employer plans of which such person is a contributing sponsor.

"(C) Substantial member.—For purposes of subparagraph (B), the term 'substantial member' of a controlled group means a person whose assets comprise 5 percent or more of the total assets of the controlled group as a whole.

"(D) Notification of determinations by the corporation.—The corporation shall notify the plan administrator as soon as practicable of its determinations made pursuant to subparagraph (B).

"(3) Termination procedure.—

"(A) Determinations by the corporation relating to plan sufficiency for guaranteed benefits and for benefit commitments.—If the corporation determines that the requirements for a distress termination set forth in paragraphs (1) and (2) are met, the corporation shall—

"(i) determine that the plan is sufficient for guaranteed benefits (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation,

"(ii) determine that the plan is sufficient for benefit commitments (as of the termination date) or that the corporation is unable to make such determination on the basis of information made available to the corporation, and

"(iii) notify the plan administrator of the determinations made pursuant to this subparagraph as soon as practicable.

"(B) IMPLEMENTATION OF TERMINATION.—After the corporation notifies the plan administrator of its determinations under subparagraph (A), the termination of the plan shall be carried out as soon as practicable, as provided in clause (i), (ii), or (iii).

"(i) CASES OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for benefit commitments, the plan administrator shall proceed to distribute the plan's assets, and make certification to the corporation with respect to such distribution, in the manner described in subsection (b)(3), and shall take such other actions as may be appropriate to carry out the termination of the plan.

"(ii) CASES OF SUFFICIENCY FOR GUARANTEED BENEFITS WITHOUT A FINDING OF SUFFICIENCY FOR BENEFIT COMMITMENTS.—In any case in which the corporation determines that the plan is sufficient for guaranteed benefits, but further determines that it is unable to determine that the plan is sufficient for benefit commitments on the basis of the information made available to it—

"(I) the plan administrator shall proceed to distribute the plan's assets in the manner described in subsection (b)(3), make certification to the corporation that the distribution has occurred, and take such actions as may be appropriate to carry out the termination of the plan, and

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049. *Post*, p. 258.

"(iii) CASES WITHOUT ANY FINDING OF SUFFICIENCY.—In any case in which the corporation determines that it is unable to determine that the plan is sufficient for guaranteed benefits on the basis of the information made available to it—

"(I) the corporation shall commence proceedings in accordance with section 4042, and *Post*, p. 253.

"(II) the corporation shall establish a separate trust in connection with the plan for purposes of section 4049 unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022. 29 USC 1322.

"(C) FINDING AFTER AUTHORIZED COMMENCEMENT OF TERMINATION THAT PLAN IS UNABLE TO PAY BENEFITS.—

"(i) FINDING WITH RESPECT TO BENEFIT COMMITMENTS WHICH ARE NOT GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized under subparagraph (B)(i), the plan administrator finds that the plan is unable, or will be unable, to pay benefit commitments which are not benefits guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs in the finding of the plan administrator (or the corporation itself makes such a finding) the corporation shall take the actions set forth in subparagraph (B)(ii)(II) relating to the trust established for purposes of section 4049.

Post, p. 258.

"(ii) FINDING WITH RESPECT TO GUARANTEED BENEFITS.—If, after the plan administrator has begun to terminate the plan as authorized by subparagraph (B) (i) or (ii), the plan administrator finds that the plan is unable, or will be unable, to pay all benefits under the plan which are guaranteed by the corporation under section 4022, the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs in the finding of the plan administrator (or the corporation itself makes such a finding), the corporation shall institute appropriate proceedings under section 4042.

29 USC 1322.

29 USC 1342.

"(D) ADMINISTRATION OF THE PLAN DURING INTERIM PERIOD.—

"(i) IN GENERAL.—The plan administrator shall—

"(I) meet the requirements of clause (ii) for the period commencing on the date on which the plan administrator provides a notice of distress termination to the corporation under subsection (a)(2) and ending on the date on which the plan administrator receives notification from the corporation of its determinations under subparagraph (A), and

"(II) meet the requirements of clause (ii) commencing on the date on which the plan administrator or the corporation makes a finding under subparagraph (C)(ii).

"(ii) REQUIREMENTS.—The requirements of this clause are met by the plan administrator if the plan administrator—

"(I) refrains from distributing assets or taking any other actions to carry out the proposed termination of this subsection,

"(II) pays benefits attributable to employer contributions, other than death benefits, only in the form of an annuity,

"(III) does not use plan assets to purchase irrevocable commitments to provide benefits from an insurer, and

"(IV) continues to pay all benefit commitments under the plan, but, commencing on the proposed termination date, limits the payment of benefits under the plan to those benefits which are guaranteed by the corporation under section 4022 or to which assets are required to be allocated under section 4044.

In the event the plan administrator is later determined not to have met the requirements for distress termination, any benefits which are not paid solely by reason of compliance with subclause (IV) shall be due and payable immediately (together with interest, at a reasonable rate, in accordance with regulations of the corporation).".

29 USC 1341.

(b) CONFORMING AMENDMENTS.—Section 4041 (as amended by the preceding provisions of this title) is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

SEC. 11010. TERMINATION PROCEEDINGS; DUTIES OF THE CORPORATION.

(a) MANDATORY COMMENCEMENT OF PROCEEDINGS UPON INABILITY OF SINGLE-EMPLOYER PLAN TO PAY BENEFITS THAT ARE CURRENTLY DUE.—

(1) IN GENERAL.—Section 4042(a) (29 U.S.C. 1342(a)) is amended—

(A) in paragraph (2), by striking out "is" and inserting in lieu thereof "will be"; and

(B) by inserting at the beginning of the matter following paragraph (4) the following new sentence: "The corporation shall as soon as practicable institute proceedings under this section to terminate a single-employer plan whenever the corporation determines that the plan does not have assets available to pay benefits which are currently due under the terms of the plan".

(2) CONFORMING AMENDMENTS.—

(A) Section 4042(b)(1) (29 U.S.C. 1342(b)(1)) is amended, in the first sentence, by inserting "or is required under subsection (a) to institute proceedings under this section," after "to a plan".

(B) Section 4042(c) (29 U.S.C. 1342(c)) is amended in the first sentence by striking out "If the corporation" and all that follows down through "has determined" and inserting in lieu thereof the following: "If the corporation is required under subsection (a) of this section to commence proceedings under this section with respect to a plan or, after issuing a notice under this section to a plan administrator, has determined".

(b) ESTABLISHMENT OF SECTION 4049 TRUST.—Section 4042 is further amended by adding at the end thereof the following new subsection:

"(i) In any case in which a plan is terminated under this section in a termination proceeding initiated by the corporation pursuant to subsection (a), the corporation shall establish a separate trust in connection with the plan for purposes of section 4049, unless the corporation determines that all benefit commitments under the plan are benefits guaranteed by the corporation under section 4022 or that there is no amount of unfunded benefit commitments under the plan.".

Post, p. 258.

29 USC 1322.

(c) CONFORMING AMENDMENT.—The heading for section 4042 is amended to read as follows:

"INSTITUTION OF TERMINATION PROCEEDINGS BY THE CORPORATION".

SEC. 11011. AMENDMENTS TO LIABILITY PROVISIONS; LIABILITIES RELATING TO BENEFIT COMMITMENTS IN EXCESS OF BENEFITS GUARANTEED BY THE CORPORATION.

(a) LIABILITY FOR DISTRESS TERMINATIONS AND TERMINATIONS BY THE CORPORATION.—Section 4062 (29 U.S.C. 1362) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by striking out so much as precedes subsection (f) (as redesignated) and inserting in lieu thereof the following:

"LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS UNDER A DISTRESS TERMINATION OR A TERMINATION BY THE CORPORATION

"SEC. 4062. (a) IN GENERAL.—In any case in which a single-employer plan is terminated in a distress termination under section 4041(c) or a termination otherwise instituted by the corporation under section 4042, any person who is, on the termination date, a contributing sponsor of the plan or a member of such a contributing sponsor's controlled group shall incur liability under this section. The liability under this section of all such persons shall be joint and several. The liability under this section consists of—

Ante, p. 248.

Ante, p. 253.

"(1) liability to the corporation, to the extent provided in subsection (b),

Ante, pp. 248, 253.

"(2) liability to the trust established pursuant to section 4041(c)(3)(B) (ii) or (iii) or section 4042(i), to the extent provided in subsection (c), and

"(3) liability to the trustee appointed under subsection (b) or (c) of section 4042, to the extent provided in subsection (d).

"(b) LIABILITY TO THE CORPORATION.—

"(1) AMOUNT OF LIABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall consist of the sum of—

"(i) the lesser of—

"(I) the total amount of unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, or

"(II) 30 percent of the collective net worth of all persons described in subsection (a),

and

"(ii) the excess (if any) of—

"(I) 75 percent of the amount described in clause (i)(I), over

"(II) the amount described in clause (i)(II),

together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation.

"(B) SPECIAL RULE IN CASE OF SUBSEQUENT INSUFFICIENCY.—For purposes of subparagraph (A), in any case described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

"(2) PAYMENT OF LIABILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation under this subsection shall be due and payable to the corporation as of the termination date, in cash or securities acceptable to the corporation.

"(B) SPECIAL RULE.—Payment of the liability under paragraph (1)(A)(ii) shall be made under commercially reasonable terms prescribed by the corporation. The parties involved shall make a reasonable effort to reach agreement on such commercially reasonable terms. Any such terms prescribed by the corporation shall provide for deferral of 50 percent of any amount of liability otherwise payable for

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any year under this subparagraph if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year.

"(3) ALTERNATIVE ARRANGEMENTS.—The corporation and any person liable under this section may agree to alternative arrangements for the satisfaction of liability to the corporation under this subsection.

"(c) LIABILITY TO SECTION 4049 TRUST.—

"(1) AMOUNT OF LIABILITY.—

Ante, pp. 248, 253.

"(A) IN GENERAL.—In any case in which there is an outstanding amount of benefit commitments under a plan terminated under section 4041(c) or 4042, a person described in subsection (a) shall be subject to liability under this subsection to the trust established under section 4041(c)(3)(B) (ii) or (iii) or section 4042(i) in connection with the terminated plan. Except as provided in subparagraph (B), the liability of such person under this subsection shall consist of the lesser of—

"(i) 75 percent of the total outstanding amount of benefit commitments under the plan, or

"(ii) 15 percent of the actuarial present value (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044) of all benefit commitments under the plan. 29 USC 1344.

"(B) SPECIAL RULE IN CASE OF SUBSEQUENT INSUFFICIENCY.—For purposes of subparagraph (A)—

"(i) PLANS INSUFFICIENT FOR GUARANTEED BENEFITS.—In any case described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date of the notice to the corporation (or the finding by the corporation) described in such section.

"(ii) PLANS SUFFICIENT FOR GUARANTEED BENEFITS BUT INSUFFICIENT FOR BENEFIT ENTITLEMENTS.—In any case described in section 4041(c)(3)(C)(i) but not described in section 4041(c)(3)(C)(ii), actuarial present values shall be determined as of the date on which the final distribution of assets is completed.

"(2) PAYMENT OF LIABILITY.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, payment of a person's liability under this subsection shall be made for liability payment years under commercially reasonable terms prescribed by the fiduciary designated by the corporation pursuant to section 4049(b)(1)(A). Such fiduciary and the liable persons assessed liability under this subsection shall make a reasonable effort to reach agreement on such commercially reasonable terms. *Post*, p. 258.

"(B) SPECIAL RULE FOR PLANS WITH LOW AMOUNTS OF LIABILITY.—In any case in which the amount described in paragraph (1)(A) is less than $100,000, the requirements of subparagraph (A) may be satisfied by payment of such liability over 10 liability payment years in equal annual installments (with interest at the rate determined under section 6621(b) of the Internal Revenue Code of 1954). The corporation may, by regulation, increase the dollar amount referred to in this subparagraph as it determines appropriate, taking into account reasonable administrative costs of trusts established under section 4041(c)(3)(B) (ii) or (iii) or section 4042(i). 26 USC 6621.

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Ante, p. 248.
Ante, p. 253.

"(C) DEFERRAL OF PAYMENTS.—The terms for payment provided for under subparagraph (A) or (B) shall also provide for deferral of 75 percent of any amount of liability otherwise payable for any liability payment year if a person subject to such liability demonstrates to the satisfaction of the corporation that no person subject to such liability has any individual pre-tax profits for such person's fiscal year ending during such year. The amount of liability so deferred is payable only after payment in full of any amount of liability under subsection (b) in connection with the termination of the same plan which has been deferred pursuant to terms provided for under subsection (b)(2)(B).

"(d) LIABILITY TO SECTION 4042 TRUSTEE.—A person described in subsection (a) shall be subject to liability under this subsection to the trustee appointed under subsection (b) or (c) of section 4042. The liability of such person under this subsection shall consist of—

"(1) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under 29 USC 1082. 26 USC 412.

29 USC 1083.
29 USC 1084.

section 303 of this Act or section 412(d) of such Code and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

"(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 303 of this Act or section 412(d) of such Code (if any), and

"(3) the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304 of this Act or section 412(e) of such Code (if any),

together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the corporation. The liability under this subsection shall be due and payable to such trustee as of the termination date, in cash or securities acceptable to such trustee.

"(e) Definitions.—

"(1) Collective net worth of persons subject to liability.—

"(A) In general.—The collective net worth of persons subject to liability in connection with a plan termination consists of the sum of the individual net worths of all persons who—

"(i) have individual net worths which are greater than zero, and

"(ii) are (as of the termination date) contributing sponsors of the terminated plan or members of their controlled groups.

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"(B) Determination of net worth.—For purposes of this paragraph, the net worth of a person is—

"(i) determined on whatever basis best reflects, in the determination of the corporation, the current status of the person's operations and prospects at the time chosen for determining the net worth of the person, and

"(ii) increased by the amount of any transfers of assets made by the person which are determined by the corporation to be improper under the circumstances, including any such transfers which would be inappropriate under title 11, United States Code, if the person were a debtor in a case under chapter 7 of such title.

11 USC 701 *et seq.*

"(C) Timing of determination.—For purposes of this paragraph, determinations of net worth shall be made as of a day chosen by the corporation (during the 120-day period ending with the termination date) and shall be computed without regard to any liability under this section.

"(2) Pre-tax profits.—The term 'pre-tax profits' means—

"(A) except as provided in subparagraph (B), for any fiscal year of any person, such person's consolidated net income (excluding any extraordinary charges to income and including any extraordinary credits to income) for such fiscal year, as shown on audited financial statements prepared in accordance with generally accepted accounting principles, or

26 USC 501.

"(B) for any fiscal year of an organization described in section 501(c) of the Internal Revenue Code of 1954, the excess of income over expenses (as such terms are defined for such organizations under generally accepted accounting principles),

before provision for or deduction of Federal or other income tax, any contribution to any single-employer plan of which such person is a contributing sponsor at any time during the period beginning on the termination date and ending with the end of such fiscal year, and any amounts required to be paid for such fiscal year under this section. The corporation may by regulation require such information to be filed on such forms as may be necessary to determine the existence and amount of such pre-tax profits.

"(3) LIABILITY PAYMENT YEARS.—The liability payment years in connection with a terminated plan consist of the consecutive one-year periods following the last plan year preceding the termination date, excluding the first such year in any case in which the first such year ends less than 180 days after the termination date.".

(b) CLERICAL AMENDMENT.—Subsection (f) of section 4062 (as redesignated by subsection (a)(1)) is amended by inserting "TREATMENT OF SUBSTANTIAL CESSATION OF OPERATIONS.—" after "(f)". 42 USC 1362.

(c) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

(1) TIME FOR DEDUCTION OF CERTAIN EMPLOYER LIABILITY PAYMENTS.—Paragraph (3) of section 404(g) of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions) is amended to read as follows: 26 USC 404.

"(3) TIMING OF DEDUCTION OF CONTRIBUTIONS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, any payment described in paragraph (1) shall

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(subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.

"(B) CONTRIBUTIONS UNDER STANDARD TERMINATIONS.—Subparagraph (A) shall not apply (and subsection (a)(1)(A) shall apply) to any payments described in paragraph (1) which are paid to terminate a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 to the extent such payments result in the assets of the plan being in excess of the total amount of benefits under such plan which are guaranteed by the Pension Benefit Guaranty Corporation under section 4022 of such Act. *Ante*, p. 244. 29 USC 1322.

"(C) CONTRIBUTIONS TO CERTAIN TRUSTS.—Subparagraph (A) shall not apply to any payment described in paragraph (1) which is made under section 4062(c) of such Act and such payment shall be deductible at such time as may be prescribed in regulations which are based on principles similar to the principles of subsection (a)(1)(A).". 29 USC 1362.

(2) REFERENCES TO ERISA.—Subsection (g) of section 404 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new paragraph: 26 USC 404.

"(4) REFERENCES TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—For purposes of this subsection, any reference to a section of the Employee Retirement Income Security Act of 1974 shall be treated as a reference to such section as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986.". *Ante*, p. 237.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to payments made after January 1, 1986, in taxable years ending after such date. 26 USC 404 note.

SEC. 11012. DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST.

(a) IN GENERAL.—Subtitle C of title IV is amended by adding at the end thereof the following new section:

"DISTRIBUTION TO PARTICIPANTS AND BENEFICIARIES OF LIABILITY PAYMENTS TO SECTION 4049 TRUST

"SEC. 4049. (a) TRUST REQUIREMENTS.—The requirements of this section apply to a trust established by the corporation in connection with a terminated plan pursuant to section 4041(c)(3)(B) (ii) or (iii). The trust shall be used exclusively for— 29 USC 1349. *Ante*, p. 248.

"(1) receiving liability payments under section 4062(c) from the persons who were (as of the termination date) contributing 29 USC 1362.

sponsors of the terminated plan and members of their controlled groups,

"(2) making distributions as provided in this section to the persons who were (as of the termination date) participants and beneficiaries under the terminated plan, and

"(3) defraying the reasonable administrative expenses incurred in carrying out responsibilities under this section.

The trust shall be maintained for such period of time as is necessary to receive all liability payments required to be made to the trust under section 4062(c) with respect to the terminated plan and to make all distributions required to be made to participants and beneficiaries under this section with respect to the terminated plan.

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"(b) Designation of Fiduciary by the Corporation.—

"(1) Purposes for designation of fiduciary.—

29 USC 1002.

29 USC 1362.

"(A) Collection of liability.—The corporation shall designate a fiduciary (within the meaning of section 3(21)) to serve as trustee of the trust for purposes of conducting negotiations and assessing and collecting liability pursuant to section 4062(c).

"(B) Administration of trust.—

"(i) Corporation's functions.—Except as provided in clause (ii), the corporation shall serve as trustee of the trust for purposes of administering the trust, including making distributions from the trust to participants and beneficiaries.

"(ii) Designation of fiduciary if cost-effective.—If the corporation determines that it would be cost-effective to do so, it may designate a fiduciary (within the meaning of section 3(21)), including the fiduciary designated under subparagraph (A), to perform the functions described in clause (i).

"(2) Fiduciary requirements.—A fiduciary designated under paragraph (1) shall be—

"(A) independent of each contributing sponsor of the plan and the members of such sponsor's controlled group, and

29 USC 1101, 1106.

"(B) subject to the requirements of part 4 of subtitle B of title I (other than section 406(a)) as if such trust were a plan subject to such part.

"(c) Distributions From Trust.—

29 USC 1362.

"(1) In general.—Not later than 30 days after the end of each liability payment year (described in section 4062(e)(3)) with respect to a terminated single-employer plan, the corporation, or its designee under subsection (b), shall distribute from the trust maintained pursuant to subsection (a) to each person who was (as of the termination date) a participant or beneficiary under the plan—

"(A) in any case not described in subparagraph (B), an amount equal to the outstanding amount of benefit commitments to such person under the plan (including interest calculated from the termination date), to the extent not previously paid under this paragraph, or

"(B) in any case in which the balance in the trust at the end of such year which is in cash or may be prudently converted to cash (after taking into account liability payments received under subsection (a)(1) and administrative expenses paid under subsection (a)(3)) is less than the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan, the product derived by multiplying—

"(i) the amount described in subparagraph (A) in connection with each such person, by

"(ii) a fraction—

"(I) the numerator of which is such balance in the trust, and

"(II) the denominator of which is equal to the total of all amounts described in subparagraph (A) in connection with all persons who were (as of the termination date) participants and beneficiaries under the terminated plan.

"(2) CARRY-OVER OF MINIMAL PAYMENT AMOUNTS.—The corporation, or its designee under subsection (b), may withhold a payment to any person under this subsection in connection with any liability payment year (other than the last liability payment year with respect to which payments under paragraph (1) are payable) if such payment does not exceed $100. In any case in which such a payment is so withheld, the payment to such person in connection with the next following liability payment year shall be increased by the amount of such withheld payment.

"(d) REGULATIONS.—The corporation may issue such regulations as it considers necessary to carry out the purposes of this section.".

(b) TAX-EXEMPT STATUS FOR TRUSTS DESCRIBED IN SECTION 4049 OF ERISA.—Subsection (c) of section 501 of the Internal Revenue Code of 1954 (relating to list of tax-exempt organizations) is amended by adding at the end thereof the following new paragraph: 26 USC 501.

"(24) A trust described in section 4049 of the Employee Retirement Income Security Act of 1974 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986).". *Ante*, p. 258. *Ante*, p. 237.

(c) ROLLOVERS OF PAYMENTS FROM TRUST ALLOWED.—Paragraph (6) of section 402(a) of such Code (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph: 26 USC 402.

"(G) PAYMENTS FROM CERTAIN PENSION PLAN TERMINATION TRUSTS.—If—

"(i) any amount is paid or distributed to a recipient from a trust described in section 501(c)(24),

"(ii) the recipient transfers any portion of the property received in such distribution to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(E)(iv), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).".

(d) SPECIAL DELAYED PAYMENT RULE.—In the case of a distress termination under section 4041(c) of the Employee Retirement Income Security Act of 1974 (as amended by section 11009) pursuant to a notice of intent to terminate filed before January 1, 1987, no payment of liability otherwise payable as provided in section 4062(c)(2)(B) of such Act (as amended by this section) shall be required to be made before January 1, 1989. 29 USC 1362 note. 29 USC 1362.

SEC. 11013. TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION.

(a) IN GENERAL.—Subtitle D of title IV is amended by adding at the end thereof the following new section:

"TREATMENT OF TRANSACTIONS TO EVADE LIABILITY; EFFECT OF CORPORATE REORGANIZATION

"SEC. 4069. (a) TREATMENT OF TRANSACTIONS TO EVADE LIABILITY.—If a principal purpose of any person in entering into any transaction is to evade liability to which such person would be subject under this subtitle and the transaction becomes effective within five years before the termination date of the termination on which such liability would be based, then such person and the 29 USC 1369.

members of such person's controlled group (determined as of the termination date) shall be subject to liability under this subtitle in connection with such termination as if such person were a contributing sponsor of the terminated plan as of the termination date. This subsection shall not cause any person to be liable under this subtitle in connection with such plan termination for any increases or improvements in the benefits provided under the plan which are adopted after the date on which the transaction referred to in the preceding sentence becomes effective.

"(b) Effect of Corporate Reorganization.—For purposes of this subtitle, the following rules apply in the case of certain corporate reorganizations:

"(1) Change of identity, form, etc.—If a person ceases to exist by reason of a reorganization which involves a mere change in identity, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the person to whom this subtitle applies.

"(2) Liquidation into parent corporation.—If a person ceases to exist by reason of liquidation into a parent corporation, the parent corporation shall be treated as the person to whom this subtitle applies.

"(3) Merger, consolidation, or division.—If a person ceases to exist by reason of a merger, consolidation, or division, the successor corporation or corporations shall be treated as the person to whom this subtitle applies.".

29 USC 1369 note.

(b) Effective Date.—Section 4069(a) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)) shall apply with respect to transactions becoming effective on or after January 1, 1986.

SEC. 11014. ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS.

(a) Private Rights of Action.—Subtitle D of title IV (as amended by section 11013) is further amended by adding at the end thereof the following new section:

"ENFORCEMENT AUTHORITY RELATING TO TERMINATIONS OF SINGLE-EMPLOYER PLANS

29 USC 1370.

Ante, pp. 244, 253, 258.
29 USC 1362-1364.
Ante, p. 260.

"Sec. 4070. (a) In General.—Any person who is with respect to a single-employer plan a fiduciary, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and is adversely affected by an act or practice of any party (other than the corporation) in violation of any provision of section 4041, 4042, 4049, 4062, 4063, 4064, or 4069, or who is an employee organization representing such a participant or beneficiary so adversely affected for purposes of collective bargaining with respect to such plan, may bring an action—

"(1) to enjoin such act or practice, or

"(2) to obtain other appropriate equitable relief (A) to redress such violation or (B) to enforce such provision.

"(b) Status of Plan as Party to Action and With Respect to Legal Process.—A single-employer plan may be sued under this section as an entity. Service of summons, subpoena, or other legal process of a court upon a trustee or an administrator of a single-employer plan in such trustee's or administrator's capacity as such shall constitute service upon the plan. If a plan has not designated in the summary plan description of the plan an individual as agent for the service of legal process, service upon any contributing sponsor of the plan shall constitute such service. Any money judgment under this section against a single-employer plan shall be enforceable only against the plan as an entity and shall not be enforceable against any other person unless liability against such person is established in such person's individual capacity.

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"(c) JURISDICTION AND VENUE.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this section. Such actions may be brought in the district where the plan is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) in any action.

Courts, U.S.

"(d) RIGHT OF CORPORATION TO INTERVENE.—A copy of the complaint or notice of appeal in any action under this section shall be served upon the corporation by certified mail. The corporation shall have the right in its discretion to intervene in any action.

"(e) AWARDS OF COSTS AND EXPENSES.—

"(1) GENERAL RULE.—In any action brought under this section, the court in its discretion may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to any party who prevails or substantially prevails in such action.

"(2) EXEMPTION FOR PLANS.—Notwithstanding the preceding provisions of this subsection, no plan shall be required in any action to pay any costs and expenses (including attorney's fees).

"(f) LIMITATION ON ACTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), an action under this section may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose, or

"(B) 3 years after the applicable date specified in paragraph (2).

"(2) APPLICABLE DATE.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), the applicable date specified in this paragraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(B) SPECIAL RULE FOR PLAINTIFFS WHO ARE FIDUCIARIES.—In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this paragraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date described in subparagraph (A).

"(3) CASES OF FRAUD OR CONCEALMENT.—In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date specified in paragraph (2).".

(b) CIVIL ACTIONS INVOLVING THE PENSION BENEFIT GUARANTY CORPORATION.—

(1) ACTIONS AGAINST THE CORPORATION.—Section 4003(f) (29 U.S.C. 1303(f)) is amended to read as follows:

"(f)(1) Except with respect to withdrawal liability disputes under part 1 of subtitle E, any person who is a fiduciary, employer, contributing sponsor, member of a contributing sponsor's controlled group, participant, or beneficiary, and is adversely affected by any action of the corporation with respect to a plan in which such person has an interest, or who is an employee organization representing such a participant or beneficiary so adversely affected for purposes of collective bargaining with respect to such plan, may bring an action against the corporation for appropriate equitable relief in the appropriate court.

"(2) For purposes of this subsection, the term 'appropriate court' means—

"(A) the United States district court before which proceedings under section 4041 or 4042 are being conducted,

Ante, pp. 244, 253.

"(B) if no such proceedings are being conducted, the United States district court for the judicial district in which the plan has its principal office, or

"(C) the United States District Court for the District of Columbia.

"(3) In any action brought under this subsection, the court may award all or a portion of the costs and expenses incurred in connection with such action to any party who prevails or substantially prevails in such action.

"(4) This subsection shall be the exclusive means for bringing actions against the corporation under this title, including actions against the corporation in its capacity as a trustee under section 4042 or 4049.

Ante, p. 258.

"(5)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) In the case of a plaintiff who is a fiduciary bringing the action in the exercise of fiduciary duties, the applicable date specified in this subparagraph is the date on which the plaintiff became a fiduciary with respect to the plan if such date is later than the date specified in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B).

"(6) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

29 USC 1451.

"(7) In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action, or proceeding is pending by following any procedure for removal now or hereafter in effect.".

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(2) Limitation on actions by the corporation.—Section 4003(e) (29 U.S.C. 1303(e)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) Except as provided in subparagraph (C), an action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose, or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B)(i) Except as provided in clause (ii), the applicable date specified in this subparagraph is the earliest date on which the corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(ii) If the corporation brings the action as a trustee, the applicable date specified in this subparagraph is the date on which the corporation became a trustee with respect to the plan if such date is later than the date described in clause (i).

"(C) In the case of fraud or concealment, the period described in subparagraph (A)(ii) shall be extended to 6 years after the applicable date specified in subparagraph (B).".

29 USC 1303 note.

(3) Effective date.—The amendments made by this subsection shall apply with respect to actions filed after the date of the enactment of this Act.

SEC. 11015. PROVISIONS RELATING TO WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD.

(a) Security For Waivers.—

(1) ERISA amendment.—

(A) In general.—Part 3 of subtitle B of title I is amended—

(i) by redesignating section 306 (29 U.S.C. 1086) as section 307; and

(ii) by inserting after section 305 (29 U.S.C. 1085) the following new section:

"SECURITY FOR WAIVERS OF MINIMUM FUNDING STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

"Sec. 306. (a) Security May Be Required.— 29 USC 1085a.

"(1) In general.—Except as provided in subsection (c), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under section 303 or an extension under section 304.

29 USC 1301.

29 USC 1083, 1084.

"(2) Special rules.—Any security provided under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

"(b) Consultation With the Pension Benefit Guaranty Corporation.—Except as provided in subsection (c), the Secretary of the Treasury shall, before granting or modifying a waiver under section 303 or an extension under section 304 with respect to a plan described in subsection (a)(1)—

"(1) provide the Pension Benefit Guaranty Corporation with—

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"(A) notice of the completed application for any waiver, extension, or modification, and

"(B) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(2) consider—

"(A) any comments of the Corporation under paragraph (1)(B), and

"(B) any views of any employee organization representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the corporation under this subsection shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1954.

26 USC 6103.

"(c) Exception for Certain Waivers and Extensions.—

"(1) In general.—The preceding provisions of this section shall not apply to any plan with respect to which the sum of—

"(A) the outstanding balance of the accumulated funding deficiencies (within the meaning of section 302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan,

29 USC 1082.
26 USC 412.

"(B) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303 of this Act or section 412(d) of such Code, and

"(C) the outstanding balance of the amount of decreases in the minimum funding standard allowed under section 304 of this Act or section 412(e) of such Code,

29 USC 1084.

is less than $2,000,000.

"(2) Accumulated funding deficiencies.—For purposes of paragraph (1)(A), accumulated funding deficiencies shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under section 303 of this Act or section 412(d) of the Internal Revenue Code of 1954 and for extensions of the amortization period under section 304 of this Act or section 412(e) of such Code which are pending with respect to such plan were denied.".

29 USC 1083.

29 USC 1061.

(B) CONFORMING AMENDMENT.—Section 211(c)(1) is amended by striking out "306(c)" and inserting in lieu thereof "307(c)".

(C) CLERICAL AMENDMENT.—The table of sections in section 1 is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

"Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.

"Sec. 307. Effective dates."

(2) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954.—

26 USC 412.

(A) IN GENERAL.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to requirement that benefits may not be increased during waiver or extension period) is amended by adding at the end thereof the following new paragraph:

"(3) SECURITY FOR WAIVERS AND EXTENSIONS; CONSULTATIONS.—

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"(A) SECURITY MAY BE REQUIRED.—

29 USC 1301.

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under subsection (d) or an extension under subsection (e).

Ante, p. 238.
Ante, p. 238.

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of such Act), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under subsection (d) or an extension under subsection (e) with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver, extension, or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

29 USC 1002.

"(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

26 USC 6103.

Information provided to the corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

"(C) Exception for certain waivers and extensions.—

"(i) In general.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the outstanding balance of the accumulated funding deficiencies (within the meaning of subsection (a) and section 302(a) of such Act) of the plan, 29 USC 1082.

"(II) the outstanding balance of the amount of waived funding deficiencies of the plan waived under subsection (d) or section 303 of such Act, and 29 USC 1083.

"(III) the outstanding balance of the amount of decreases in the minimum funding standard allowed under subsection (e) or section 304 of such Act, 29 USC 1084.

is less than $2,000,000.

"(ii) Accumulated funding deficiencies.—For purposes of clause (i)(I), accumulated funding deficiencies shall include any increase in such amount which would 100 STAT. 267 result if all applications for waivers of the minimum funding standard under subsection (d) or section 303 of such Act and for extensions of the amortization period under subsection (e) or section 304 of such Act which are pending with respect to such plan were denied.". 29 USC 1083. 29 USC 1084.

(B) Conforming amendments.—Section 412(f) of the Internal Revenue Code of 1954 is amended— 26 USC 412.

(i) by striking out the heading thereof and inserting in lieu thereof:

"(f) Requirements Relating to Waivers and Extensions.—", and

(ii) by striking out the heading of paragraph (1) thereof and inserting in lieu thereof:

"(1) Benefits may not be increased during waiver or extension period.—".

(3) Effective dates.—The amendments made by this subsection shall apply with respect to applications for waivers, extensions, and modifications filed on or after the date of the enactment of this Act. 29 USC 1085a note.

(b) Applicable Interest Rate Under Arrangements Providing for Waivers and Extensions.—

(1) Amendments to erisa.—

(A) Variances from the minimum funding standard.—Section 303(a) (29 U.S.C. 1083(a)) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 302(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.". 29 USC 1082. 26 USC 6621.

(B) Extensions of the amortization period.—Section 304(a) (29 U.S.C. 1084(a)) is amended by adding after and below paragraph (2) the following new sentence:

'The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b) of the Internal Revenue Code of 1954.".

(2) Amendments to internal revenue code.—

(A) Variances from the minimum funding standard.—Paragraph (1) of section 412(d) of the Internal Revenue Code of 1954 (relating to waivers in case of substantial business hardship) is amended by adding at the end thereof the following new sentence: "The interest rate used for purposes of computing the amortization charge described in section 412(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b).". 26 USC 412.

(B) EXTENSIONS OF THE AMORTIZATION PERIOD.—Subsection (e) of section 412 of such Code (relating to extension of amortization period) is amended by adding after and below paragraph (2) the following new sentence:

"The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b).".

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SEC. 11016. CONFORMING, CLARIFYING, TECHNICAL, AND MISCELLANEOUS AMENDMENTS.

(a) CONFORMING AMENDMENTS RELATING TO PLAN TERMINATIONS.—

(1) ESTIMATED BENEFITS FOR CERTAIN SINGLE-EMPLOYER PLANS.—Section 4005(b)(2) (29 U.S.C. 1305(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following:

"(E) to pay to participants and beneficiaries the estimated amount of benefits which are guaranteed by the corporation under this title and the estimated amount of other benefits to which plan assets are allocated under section 4044, under single-employer plans which are unable to pay benefits when due or which are abandoned.".

29 USC 1344.

(2) CREDITS TO REVOLVING FUND.—Section 4005(b)(1) (29 U.S.C. 1305(b)(1)) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by redesignating subparagraph (F) as subparagraph (G); and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) attorney's fees awarded to the corporation, and".

(3) RESTORATION OF PLANS.—Section 4047 (29 U.S.C. 1347) is amended—

(A) in the first sentence, by inserting "under section 4041 or 4042" after "terminated" each place it appears; and

(B) in the second sentence, by striking out "section 4042" and inserting in lieu thereof "section 4041 or 4042".

(4) TERMINATION DATE.—Section 4048(a) (29 U.S.C. 1348(a)) is amended—

(A) by striking out "date of termination" and inserting in lieu thereof "termination date";

(B) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(C) in paragraph (2) (as redesignated), by inserting "in a distress termination" after "terminated" and by striking out "section 4041" and inserting in lieu thereof "section 4041(c)";

(D) by inserting before paragraph (2) (as redesignated) the following new paragraph:

"(1) in the case of a plan terminated in a standard termination in accordance with the provisions of section 4041(b), the termination date proposed in the notice provided under section 4041(a)(2),";

and

(E) in paragraph (4) (as redesignated), by striking out "in accordance with the provisions of either section" and inserting in lieu thereof "under section 4041(c) or 4042".

(5) CONFORMING AMENDMENTS TO SPECIAL LIABILITY RULES RELATING TO CERTAIN SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.—

(A) LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL.—

(i) Section 4063(a) (29 U.S.C. 1363(a)) is amended—

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(I) by striking out "plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan which has two or more contributing sponsors at least two of whom are not under common control";

(II) in paragraph (1), by striking out "withdrawal of a substantial employer" and inserting in lieu thereof "withdrawal during a plan year of a substantial employer for such plan year";

(III) in paragraph (2), by striking out "of such employer" and all that follows and inserting in lieu thereof "of all persons with respect to the withdrawal of the substantial employer.";

(IV) by striking out "whether such employer is liable for any amount under this subtitle with respect to the withdrawal" and inserting in lieu thereof "whether there is liability resulting from the withdrawal of the substantial employer"; and

(V) by striking out "notify such employer" and inserting in lieu thereof "notify the liable persons".

(ii) Section 4063(b) (29 U.S.C. 1363(b)) is amended—

(I) by striking out "an employer" and all that follows down through "shall be liable" and inserting in lieu thereof "any one or more contributing sponsors who withdraw, during a plan year for which they constitute a substantial employer, from a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control, shall, upon notification of such contributing sponsors by the corporation as provided by subsection (a), be liable, together with the members of their controlled groups,";

(II) by striking out "such employer's";

(III) by striking out "the employer's withdrawal" and inserting in lieu thereof "the withdrawal referred to in subsection (a)(1)";

(IV) in paragraph (1), by striking out "such employer" and inserting in lieu thereof "such contributing sponsors";

(V) in paragraph (2), by striking out "all employers" and inserting in lieu thereof "all contributing sponsors"; and

(VI) by striking out "the liability of each such employer" and inserting in lieu thereof "such liability".

(iii) Section 4063(c) (29 U.S.C. 1363(c)) is amended—

(I) in paragraph (1), by striking out "In lieu of payment of his liability under this section the employer" and inserting in lieu thereof "In lieu of payment of a contributing sponsor's liability under this section, the contributing sponsor";

(II) in paragraph (2), by inserting "under section 4041(c) or 4042" after "terminated", by striking out "of such employer", and by striking out "to the employer (or his bond cancelled)" and inserting in lieu thereof "(or the bond cancelled)"; and

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(III) in paragraph (3), by inserting "under section 4041(c) or 4042" after "terminates" and by striking out "employer" in subparagraph (C) and inserting in lieu thereof "contributing sponsor".

(iv) Section 4063(d) (29 U.S.C. 1363(d)) is amended—

(I) by striking out "Upon a showing by the plan administrator of a plan (other than a multiemployer plan) that the withdrawal from the plan by any employer or employers has resulted" and inserting in lieu thereof "Upon a showing by the plan administrator of the plan that the withdrawal from the plan by one or more contributing sponsors has resulted";

(II) by striking out "by employers";

(III) in paragraph (1), by striking out "their employer's" and inserting in lieu thereof "the"; and

(IV) in paragraph (2), by striking out "termination" and inserting in lieu thereof "plan terminated under section 4042".

(v) Section 4063(e) (29 U.S.C. 1363(e)) is amended—

(I) by striking out "to any employer or plan administrator"; and

(II) by striking out "all other employers" and inserting in lieu thereof "contributing sponsors".

(vi) The heading for section 4063 is amended by adding at the end thereof the following "FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS.".

(B) ALLOCATION OF LIABILITY UPON TERMINATION OF CERTAIN SINGLE-EMPLOYER PLANS.—

(i) Section 4064(a) (29 U.S.C. 1364(a)) is amended—

(I) by striking out "all employers who maintain a plan under which more than one employer makes contributions (other than a multiemployer plan)" and inserting in lieu thereof "all contributing sponsors of a single-employer plan which has two or more contributing sponsors at least two of whom are not under common control"; and

(II) by inserting "under section 4041(c) or 4042" after "terminated".

(ii) Section 4064(b) (29 U.S.C. 1364(b)) is amended to read as follows:

29 USC 1362.

"(b) The corporation shall determine the liability with respect to each contributing sponsor and each member of its controlled group in a manner consistent with section 4062, except that—

"(1) the amount of the liability determined under section 4062(b)(1) with respect to the entire plan—

"(A) shall be determined without regard to clauses (i)(II) and (ii) of section 4062(b)(1)(A), and

"(B) shall be allocated to each controlled group by multiplying such amount by a fraction—

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"(i) the numerator of which is the amount required to be contributed to the plan for the last 5 plan years ending prior to the termination date by persons in such controlled group as contributing sponsors, and

"(ii) the denominator of which is the total amount required to be contributed to the plan for such last 5 plan years by all persons as contributing sponsors,

29 USC 1362.

and clauses (i)(II) and (ii) of section 4062(b)(1)(A) shall be applied separately with respect to each such controlled group, and

"(2) the amount of the liability determined under section 4062(c)(1) with respect to the entire plan shall be allocated to each controlled group by multiplying such amount by the fraction described in paragraph (1)(B) in connection with such controlled group.

The corporation may also determine the liability of each such contributing sponsor and member of its controlled group on any other equitable basis prescribed by the corporation in regulations.".

(iii) The heading for section 4064 is amended to read as follows:

"LIABILITY ON TERMINATION OF SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS".

(C) ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.—Section 4066 (29 U.S.C. 1366) is amended—

(i) by striking out "each plan under which contributions are made by more than one employer (other than a multiemployer plan)" and inserting in lieu thereof "each single-employer plan which has at least two contributing sponsors at least two of whom are not under common control";

(ii) by striking out "any employer making contributions under that plan" and inserting in lieu thereof "contributing sponsor of the plan"; and

(iii) by striking out "that he is a substantial employer" and inserting in lieu thereof "that such contributing sponsor (alone or together with members of such contributing sponsor's controlled group) constitutes a substantial employer".

(6) ADDITIONAL AMENDMENTS RELATING TO RECOVERY OF AMOUNTS OF LIABILITY.—

(A) Section 4067 (29 U.S.C. 1367) is amended—

(i) in the heading, by striking out "EMPLOYER";

(ii) by striking out "employer or employers" and inserting in lieu thereof "contributing sponsors and members of their controlled groups"; and

(iii) by inserting "of amounts of liability to the corporation accruing as of the termination date" after "deferred payment".

(B) Section 4068 (29 U.S.C. 1368) is amended—

(i) in the heading, by striking out "OF EMPLOYER";

(ii) in subsection (a), by striking out "employer or employers" the first place it appears and inserting in lieu thereof "person", by striking out "neglect or refuse" and inserting in lieu thereof "neglects or refuses", by inserting "to the extent of an amount equal to the unpaid amount described in section 4062(b)(1)(A)(i)" after "liability" and after "corporation" the second place it appears, and by striking out "employer or employers" and inserting in lieu thereof "person"; 100 STAT. 272

(iii) in subsection (d)(1), by striking out "employer" and inserting in lieu thereof "liable person";

(iv) in subsection (d)(2), by striking out "employer" each place it appears and inserting in lieu thereof "liable person";

(v) in subsection (e), by striking out "employer or employers" and inserting in lieu thereof "liable person"; and

(vi) by striking out subsection (c)(1) (29 U.S.C. 1368(c)(1)) and inserting in lieu thereof the following:

"(c)(1) Except as otherwise provided under this section, the priority of a lien imposed under subsection (a) shall be determined in the same manner as under section 6323 of the Internal Revenue Code of 1954 (as in effect on the date of the enactment of the Single-Employer Pension Plan Amendments Act of 1986). Such section 6323 shall be applied for purposes of this section by disregarding subsection (g)(4) and by substituting— 26 USC 6323. *Ante*, p. 237.

"(A) 'lien imposed by section 4068 of the Employee Retirement Income Security Act of 1974' for 'lien imposed by section 6321' each place it appears in subsections (a), (b), (c)(1), (c)(4)(B), (d), (e), and (h)(5); 29 USC 1368.

"(B) 'the corporation' for 'the Secretary' in subsections (a) and (b)(9)(C);

"(C) 'the payment of the amount on which the section 4068(a) lien is based' for 'the collection of any tax under this title' in subsection (b)(3);

"(D) 'a person whose property is subject to the lien' for 'the taxpayer' in subsections (b)(8), (c)(2)(A)(i) (the first place it appears), (c)(2)(A)(ii), (c)(2)(B), (c)(4)(B), and (c)(4)(C) (in the matter preceding clause (i));

"(E) 'such person' for 'the taxpayer' in subsections (c)(2)(A)(i) (the second place it appears) and (c)(4)(C)(ii);

"(F) 'payment of the loan value of the amount on which the lien is based is made to the corporation' for 'satisfaction of a levy pursuant to section 6332(b)' in subsection (b)(9)(C);

"(G) 'section 4068(a) lien' for 'tax lien' each place it appears in subsections (c)(1), (c)(2)(A), (c)(2)(B), (c)(3)(B)(iii), (c)(4)(B), (d), and (h)(5); and

"(H) 'the date on which the lien is first filed' for 'the date of the assessment of the tax' in subsection (g)(3)(A).".

(b) Clarification of Description of Certain Information Required To Be Filed in Annual Report.—

(1) In general.—Section 103(d)(6) (29 U.S.C. 1023(d)(6)) is amended to read as follows:

"(6) Information required in regulations of the Pension Benefit Guaranty Corporation with respect to:

"(A) the current value of the assets of the plan,

"(B) the present value of all nonforfeitable benefits for participants and beneficiaries receiving payments under the plan,

"(C) the present value of all nonforfeitable benefits for all other participants and beneficiaries,

"(D) the present value of all accrued benefits which are not nonforfeitable (including a separate accounting of such benefits which are benefit commitments, as defined in section 4001(a)(16)), and

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29 USC 1301.

"(E) the actuarial assumptions and techniques used in determining the values described in subparagraphs (A) through (D).".

(2) Conforming amendment.—Section 104(a)(2)(A) (29 U.S.C. 1024(a)(2)(A)) is amended by striking out the second sentence.

29 USC 1023 note.

(3) Transition rules.—Any regulations, modifications, or waivers which have been issued by the Secretary of Labor with respect to section 103(d)(6) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the date of the enactment of this Act) shall remain in full force and effect until modified by any regulations with respect to such section 103(d)(6) prescribed by the Pension Benefit Guaranty Corporation.

29 USC 1023.

(c) Additional Amendments.—

(1) Definition for title i.—Section 3(37)(A) (29 U.S.C. 1002(37)(A)) is amended by inserting "pension" before "plan".

(2) Notice of request for waivers of minimum funding standards and right to submit relevant information.—Section 303 (29 U.S.C. 1083) is amended by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary of the Treasury shall, before granting a waiver under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each employee organization representing employees covered by the affected plan.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(3) Notice of request for extensions of amortization period and right to submit relevant information.—Section 304 (29 U.S.C. 1084) is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary of the Treasury shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each employee organization representing employees covered by the affected plan.

"(2) The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(4) Amendment to the Internal Revenue Code of 1954.—Subsection (f) of section 412 of the Internal Revenue Code of 1954 (relating to benefits may not be increased during waiver or extension period), as amended by the preceding provisions of this title, is further amended by adding at the end thereof the following new paragraph:

26 USC 412.

"(4) Additional requirements.—

"(A) Advance notice.—The Secretary shall, before granting a waiver under subsection (d) or an extension under subsection (e), require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver or extension to each employee organization representing employees covered by the affected plan.

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"(B) Consideration of relevant information.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).".

(5) Audit of plans terminated in standard termination.—Section 4003(a) (29 U.S.C. 1303(a)) is amended by adding at the end thereof the following new sentence: "The corporation shall annually audit a statistically significant number of plans terminating under section 4041(b) to determine whether participants and beneficiaries have received their benefit commitments. Each audit shall include a statistically significant number of participants and beneficiaries.".

Ante, p. 244.

(6) Repeal of expired authority.—Section 4004 (29 U.S.C. 1304) is repealed.

(7) Voting by corporation of stock paid as liability.—Section 4005 (29 U.S.C. 1305) is amended by adding at the end thereof the following new subsection:

"(g) Any stock in a person liable to the corporation under this title which is paid to the corporation by such person or a member of such person's controlled group in satisfaction of such person's liability under this title may be voted only by the custodial trustees or outside money managers of the corporation or fiduciaries with respect to trusts to which the requirements of section 4049 apply.".

Ante, p. 258.

(8) Effective years.—Section 4022(b)(7) (29 U.S.C. 1322(b)(7)) is amended by striking out "following" and inserting in lieu thereof "beginning with".

(9) Treatment of qualified preretirement survivor annuities.—Section 4022 (29 U.S.C. 1322) is amended by adding at the end thereof the following new subsection:

"(d) For purposes of subsection (a), a qualified preretirement survivor annuity (as defined in section 205(e)(1)) with respect to a participant under a terminated single-employer plan shall not be treated as forfeitable solely because the participant has not died as of the termination date.".

29 USC 1055.

(10) Clarification of power to collect amounts due the corporation.—Section 4042(d)(1)(B)(ii) (29 U.S.C. 1342(d)(1)(B)(ii)) is amended by inserting after "amounts due the

plan" the following: ", including but not limited to the power to collect from the persons obligated to meet the requirements of section 302 or the terms of the plan". 29 USC 1082.

(11) CONFORMING AMENDMENT.—Section 4042(d)(3) (29 U.S.C. 1342(d)(3)) is amended by striking out "same duties as a trustee appointed under section 47 of the Bankruptcy Act" and inserting in lieu thereof "same duties as those of a trustee under section 704 of title 11, United States Code".

(12) CONFORMING AMENDMENT.—Section 4044(a) (29 U.S.C. 1344(a)) is amended by striking out "defined benefit".

(13) CLERICAL CORRECTIONS.—Section 4044(a)(4) (29 U.S.C. 1344(a)(4)(A)) is amended—

(A) in subparagraph (A), by striking out "section 4022(b)(5)" and inserting in lieu thereof "section 4022B(a)"; and

(B) in subparagraph (B), by striking out "section 4022(b)(6)" and inserting in lieu thereof "section 4022(b)(5)".

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(14) RELEASE OF LIEN.—Section 4068(e) (29 U.S.C. 1368(e)) is amended by striking out ", with the consent of the board of directors,".

29 USC 1143a Congress.

(d) STUDIES BY COMPTROLLER GENERAL.—

(1) IN GENERAL.—The Comptroller General of the United States may, pursuant to the request of any Member of Congress, study employee benefit plans, including the effects of such plans on employees, participants, and their beneficiaries.

(2) ACCESS TO BOOKS, DOCUMENTS, ETC.—For the purpose of conducting studies under this subsection, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(A) within the possession or control of the administrator, sponsor, or employer of and persons providing services to any employee benefit plan, and

(B) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(3) DEFINITIONS.—For purposes of this subsection, the terms "employee benefit plan", "participant", "administrator", "beneficiary", "plan sponsor", "employee", and "employer" are defined in section 3 of the Employee Retirement Income Security Act of 1974. 29 USC 1002.

29 USC 1143a note.

(4) EFFECTIVE DATE.—The preceding provisions of this subsection shall be effective on the date of the enactment of this Act.

(e) AMENDMENTS TO THE TABLE OF CONTENTS OF ERISA.—The table of contents in section 1 is amended—

(1) by striking out the item relating to section 4004;

(2) by striking out the item relating to section 4042 and inserting in lieu thereof the following new item:

"Sec. 4042. Institution of termination proceedings by the corporation.";

(3) by inserting after the item relating to section 4048 the following new item:

"Sec. 4049. Distribution to participants and beneficiaries of liability payments to section 4049 trust.";

and

(4) by striking out the items relating to subtitle D of title IV and inserting in lieu thereof the following new items:

"Subtitle D—Liability

"Sec. 4061. Amounts payable by the corporation.

"Sec. 4062. Liability for termination of single-employer plans under a distress termination or a termination by the corporation.

"Sec. 4063. Liability of substantial employer for withdrawal from single-employer plans under multiple controlled groups.

"Sec. 4064. Liability on termination of single-employer plans under multiple controlled groups.
"Sec. 4065. Annual report of plan administrator.
"Sec. 4066. Annual notification of substantial employers.
"Sec. 4067. Recovery of liability for plan termination.
"Sec. 4068. Lien for liability.
"Sec. 4069. Treatment of transactions to evade liability; effect of corporate reorganization.
"Sec. 4070. Enforcement authority relating to terminations of single-employer plans.".

SEC. 11017. STUDIES.

29 USC 1306 note.

(a) SINGLE-EMPLOYER PENSION PLAN TERMINATION INSURANCE PREMIUM STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Pension Benefit Guaranty Corporation shall conduct a study of the premiums established under the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974.

29 USC 1301.

(2) MATTERS TO BE STUDIED.—The Corporation shall specifically consider in its study the following matters:

(A) the effect of the amendments made by this title on the long-term stability of the single-employer pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974,

(B) alternatives to the current statutory mechanism with respect to proposals for changes in the premium levels under such program,

(C) the methods currently used by the Corporation in projecting future program costs of the single-employer pension plan termination insurance program,

(D) alternative methods of projecting such future program costs and an evaluation of each such alternative method,

(E) the methods currently used by the Corporation in determining premiums needed to allocate and adequately fund such future program costs,

(F) alternative methods of making such premium determinations and an evaluation of each such alternative method, and

(G) alternative premium bases upon which some or all of such projected future program costs would be allocated on an exposure-related or risk-related computation, which may take into account the different exposures or risks imposed on the Corporation by plan sponsors with different histories and under different circumstances.

(3) SUBMISSION OF CORPORATION'S REPORT.—Not later than one year after the date of the enactment of this Act, the Corporation shall report the results of its study, together with any recommendations for statutory changes, to an advisory council, to be appointed by the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate. The advisory council shall be composed of representatives of single-employer plan sponsors, employee organizations representing single-employer plan participants, and members of the general public who are experts in the matters to be considered in the study. The members of the advisory council shall serve without compensation.

(4) SUBMISSION OF COUNCIL'S REPORT TO CONGRESS.—Not later than 180 days after the date of the submission of the Corporation's report to the advisory council under paragraph (3), the advisory council shall submit the results of the Corporation's study and the Corporation's recommendations, together with the recommendations of the council, to the Speaker of the

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House of Representatives and the President pro tempore of the Senate.

(5) Cooperation by the Pension Benefit Guaranty Corporation and Other Federal Agencies.—The Corporation shall cooperate with the advisory council in reviewing the results of the Corporation's study and recommendations. In order to avoid unnecessary expense and duplication, to the extent not otherwise prohibited by law, the Corporation and any other Federal agency shall provide to the advisory council any data, analyses, or other relevant information related to the matters under review.

(b) Overfunded Pension Plan Study.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Secretary of Labor shall conduct a study of terminations resulting in residual assets under section 4044(d) of the Employee Retirement Income Security Act of 1974.

29 USC 1344.

(2) Report.—No later than May 1, 1986, the Secretary of Labor shall submit a report on the study conducted under paragraph (1), together with any recommendations for statutory changes, to the chairmen of the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Finance of the Senate.

29 USC 1135 note.
Prohibition.

SEC. 11018. LIMITATION ON REGULATIONS.

(a) Regulatory Treatment of Assets of Real Estate Entities.—

(1) In general.—Except as a defense, no rule or regulation adopted pursuant to the Secretary's proposed regulation defining "plan assets" for purposes of the Employee Retirement Income Security Act of 1974 (50 Fed. Reg. 961, January 8, 1985, as modified by 50 Fed. Reg. 6361, February 15, 1985), or any reproposal thereof prior to the adoption of the regulations required to be issued in accordance with subsection (d), shall apply to any asset of a real estate entity in which a plan, account, or arrangement subject to such Act invests if—

(A) any interest in the entity is first offered to a plan, account, or arrangement subject to such Act investing in the entity (hereinafter in this section referred to as a "plan investor") on or before the date which is 120 days after the date of publication of such rule or regulation as a final rule or regulation;

(B) no plan investor acquires an interest in the entity from an issuer or underwriter at any time on or after the date which is 270 days after the date of publication of such rule or regulation as a final rule or regulation (except pursuant to a contract or subscription binding on the plan investor and entered into, or tendered, before the expiration of such 270-day period, or pursuant to the exercise, on or before December 31, 1990, of a warrant which was the subject of an effective registration under the Securities Act of 1933 (15 U.S.C. 77q et seq.) prior to the date of the enactment of this section); and

15 USC 77a *et seq.*

(C) every interest in the entity acquired by a plan investor (or contracted for or subscribed to by a plan investor) before the expiration of such 270-day period is a security—

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(i) which is part of an issue or class of securities which upon such acquisition or at any time during the offering period is held by 100 or more persons;

(ii) the economic rights of ownership in respect of which are freely transferable;

(iii) which is registered under the Securities Act of 1933; and

15 USC 77a *et seq.*

(iv) which is part of an issue or class of securities which is registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (or is so registered within three years of the effective date of the registration statement of such securities for purposes of the Securities Act of 1933: *Provided*, That the issuer provides plan investors with such reports with respect to the offering period as are required with respect to such period by the Securities and Exchange Commission under such Acts and the rules and regulations promulgated thereunder).

In the case of partnerships organized prior to enactment of this section, the requirements of subparagraphs (iii) and (iv) shall not apply to initial limited partnership interests in an entity otherwise described above: *Provided*, That such entity was the subject of an effective registration under the Securities Act of 1933 prior to the date of the enactment of this section, such interests were issued solely for partnership organizational purposes in compliance with State limited partnership laws, and such interest has a value as of the date of issue of less than $20,000 and represents less than one percent of the total interests outstanding as of the completion of the offering period.

Prohibition.

29 USC 1001 note.

(2) MAINTENANCE OF CURRENT REGULATORY TREATMENT.—No asset of any real estate entity described in paragraph (1) shall be treated as an asset of any plan investor for any purpose of the Employee Retirement Income Security Act of 1974 if the assets of such entity would not have been assets of such plan investor under the provisions of—

(A) Interpretive Bulletin 75-2 (29 CFR 2509 750-2); or

(B) the regulations proposed by the Secretary of Labor and published—

(i) on August 28, 1979, at 44 Fed. Reg. 50363;

(ii) on June 6, 1980, at 45 Fed. Reg. 38084;

(iii) on January 8, 1985, at 50 Fed. Reg. 961; or

(iv) on February 15, 1985, at 50 Fed. Reg. 6361,

without regard to any limitation of any effective date proposed therein.

(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) The term "real estate entity" means an entity which, at any time within two years after the closing of its offering period has invested or has contracted to invest at least 75 percent of the value of its net assets available for investment in direct or indirect ownership of "real estate assets" or "interests in real property".

(2) The term "real estate asset" means real property (including an interest in real property) and any share of stock or beneficial interest, partnership interest, depository receipt, or any other interest in any other real estate entity.

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(3) The term "interest in real property" includes, directly or indirectly, the following:

(A) the ownership or co-ownership of land or improvements thereon;

(B) any mortgage (including an interest in or co-ownership of any mortgage, leasehold mortgage, pool of mortgages, deed of trust, or similar instrument) on land or improvements thereon,

(C) any leasehold of land or improvements thereon; and

(D) any option to acquire any of the foregoing, but does not include any mineral, oil, or gas royalty interest.

Prohibitions.

(4) Whether the economic rights of ownership with respect to a security are "freely transferable" shall be determined based upon all the facts and circumstances, but ordinarily none of the following, alone or in any combination, shall cause the economic rights of ownership to be considered not freely transferable—

(A) any requirement that not less than a minimum number of shares or units of such security be transferred or assigned by any investor: *Provided*, That such requirement does not prevent transfer of all of the then remaining shares or units held by an investor;

(B) any prohibition against transfer or assignment of such security or rights in respect thereof to an ineligible or unsuitable investor;

(C) any restriction on or prohibition against any transfer or assignment which would either result in a termination or reclassification of the entity for Federal or State tax purposes or which would violate any State or Federal statute, regulation, court order, judicial decree, or rule of law;

(D) any requirement that reasonable transfer or administrative fees be paid in connection with a transfer or assignment;

(E) any requirement that advance notice of a transfer or assignment be given to the entity and any requirement regarding execution of documentation evidencing such transfer or assignment (including documentation setting forth representations from either or both of the transferor or transferee as to compliance with any restriction or requirement described in this section or requiring compliance with the entity's governing instruments);

(F) any restriction on substitution of an assignee as a limited partner of a partnership, including a general partner consent requirement: *Provided*, That the economic benefits of ownership of the assignor may be transferred or assigned without regard to such restriction or consent (other than compliance with any other restriction described in this section);

(G) any administrative procedure which establishes an effective date, or an event such as the completion of the offering, prior to which a transfer or assignment will not be effective; and

(H) any limitation or restriction on transfer or assignment which is not created or imposed by the issuer or any person acting for or on behalf of such issuer.

Regulations.

(c) NO EFFECT ON SECRETARY'S AUTHORITY OTHER THAN AS PROVIDED.—Except as provided in subsection (a), nothing in this section shall limit the authority of the Secretary of Labor to issue regulations or otherwise interpret section 3(21) of the Employee Retirement Income Security Act of 1974.

29 USC 1002.

(d) TIME LIMIT FOR FINAL REGULATIONS.—The Secretary of Labor shall adopt final regulations defining "plan assets" by December 31, 1986.

(e) EFFECTIVE DATE.—The preceding provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 11019. EFFECTIVE DATE OF TITLE; TEMPORARY PROCEDURES.

29 USC 1341 note.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall be effective as of January 1, 1986, except that such amendments shall not apply with respect to terminations for which—

(1) notices of intent to terminate were filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 before such date, or

Ante, p. 244.

(2) proceedings were commenced under section 4042 of such Act before such date.

Ante, p. 253.

(b) TRANSITIONAL RULES.—

(1) IN GENERAL.—In the case of a single-employer plan termination for which a notice of intent to terminate was filed with the Pension Benefit Guaranty Corporation under section 4041 of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this title) on or after January 1, 1986, but before the date of the enactment of this

Act, the amendments made by this title shall apply with respect to such termination, as modified by paragraphs (2) and (3).

(2) DEEMED COMPLIANCE WITH NOTICE REQUIREMENTS.—The requirements of subsections (a)(2), (b)(1)(A), and (c)(1)(A) of section 4041 of the Employee Retirement Income Security Act of 1974 (as amended by this title) shall be considered to have been met with respect to a termination described in paragraph (1) if—

(A) the plan administrator provided notice to the participants in the plan regarding the termination in compliance with applicable regulations of the Pension Benefit Guaranty Corporation as in effect on the date of the notice, and

(B) the notice of intent to terminate provided to the Pension Benefit Guaranty Corporation in connection with the termination was filed with the Corporation not less than 10 days before the proposed date of termination specified in the notice.

For purposes of section 4041 of such Act (as amended by this title), the proposed date of termination specified in the notice of intent to terminate referred to in subparagraph (B) shall be considered the proposed termination date.

(3) SPECIAL TERMINATION PROCEDURES.—

(A) IN GENERAL.—This paragraph shall apply with respect to any termination described in paragraph (1) if, within 90 days after the date of enactment of this Act, the plan administrator notifies the Corporation in writing—

(i) that the plan administrator wishes the termination to proceed as a standard termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this title) in accordance with subparagraph (B),

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(ii) that the plan administrator wishes the termination to proceed as a distress termination under section 4041(c) of such Act (as amended by this title) in accordance with subparagraph (C), or

Ante, p. 248.

(iii) that the plan administrator wishes to stop the termination proceedings in accordance with subparagraph (D).

(B) TERMINATIONS PROCEEDING AS STANDARD TERMINATION.—

(i) TERMINATIONS FOR WHICH SUFFICIENCY NOTICES HAVE NOT BEEN ISSUED.—

(I) IN GENERAL.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has not been issued by the Corporation before the date of the enactment of this Act, if, during the 90-day period commencing on the date of the notice required in subclause (II), all benefit commitments under the plan have been satisfied, the termination shall be treated as a standard termination under section 4041(b) of such Act (as amended by this title).

(II) SPECIAL NOTICE REGARDING SUFFICIENCY FOR TERMINATIONS FOR WHICH NOTICES OF SUFFICIENCY HAVE NOT BEEN ISSUED AS OF DATE OF ENACTMENT.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has not been issued by the Corporation before the date of the enactment of this Act, the Corporation shall make the determinations described in section 4041(c)(3)(A) (i) and (ii) (as amended by this title) and notify the plan administrator of such determinations as provided in section 4041(c)(3)(A)(iii) (as amended by this title).

(ii) TERMINATIONS FOR WHICH NOTICES OF SUFFICIENCY HAVE BEEN ISSUED.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(i) and with respect to which a notice of sufficiency has been issued by the Corporation before the date of the enactment of this Act, clause (i)(I) shall apply, except that the 90-day period referred to in clause (i)(I) shall begin on the date of the enactment of this Act.

(C) TERMINATIONS PROCEEDING AS DISTRESS TERMINATION.—In the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(ii), if the requirements of section 4041(c)(2)(B) of such Act (as amended by this title) are met, the termination shall be treated as a distress termination under section 4041(c) of such Act (as amended by this title).

Ante, p. 248.

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(D) TERMINATION OF PROCEEDINGS BY PLAN ADMINISTRATOR.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of a plan termination described in paragraph (1) with respect to which the Corporation has been provided the notification described in subparagraph (A)(iii), the termination shall not take effect.

(ii) TERMINATIONS WITH RESPECT TO WHICH FINAL DISTRIBUTION OF ASSETS HAS COMMENCED.—Clause (i) shall not apply with respect to a termination with respect to which the final distribution of assets has commenced before the date of the enactment of this Act unless, within 90 days after the date of the enactment of this Act, the plan has been restored in accordance with procedures issued by the Corporation pursuant to subsection (c).

(E) AUTHORITY OF CORPORATION TO EXTEND 90-DAY PERIODS TO PERMIT STANDARD TERMINATION.—The Corporation may, on a case-by-case basis in accordance with subsection (c), provide for extensions of the applicable 90-day period referred to in clause (i) or (ii) of subparagraph (B) if it is demonstrated to the satisfaction of the Corporation that—

(i) the plan could not otherwise, pursuant to the preceding provisions of this paragraph, terminate in a termination treated as a standard termination under section 4041(b) of the Employee Retirement Income Security Act of 1974 (as amended by this title), and

Ante, p. 244.

(ii) the extension would result in a greater likelihood that benefit commitments under the plan would be paid in full,

except that any such period may not be so extended beyond one year after the date of the enactment of this Act.

(c) AUTHORITY TO PRESCRIBE TEMPORARY PROCEDURES.—The Pension Benefit Guaranty Corporation may prescribe temporary procedures for purposes of carrying out the amendments made by this title during the 180-day period beginning on the date described in subsection (a).

TITLE XII—INCOME SECURITY AND RELATED PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance Program

SEC. 12101. DEMONSTRATION PROJECTS INVOLVING THE DISABILITY INSURANCE PROGRAM.

(a) Extension of Waiver Authority.—Section 505(a)(3) of the Social Security Disability Amendments of 1980 is amended by inserting "which is initiated before June 10, 1990" after "demonstration project under paragraph (1)".

42 USC 1310 note.

(b) Interim Reports.—Section 505(a)(4) of such Amendments is amended to read as follows:

42 USC 1310 note.

"(4) On or before June 9 in each of the years 1986, 1987, 1988, and 1989, the Secretary shall submit to the Congress an interim report

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on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials which the Secretary may consider appropriate.".

(c) Final Report.—Section 505(c) of such Amendments is amended by striking out "under this section no later than five years after the date of the enactment of this Act" and inserting in lieu thereof "under subsection (a) no later than June 9, 1990".

42 USC 1310 note.

(d) Incorporation of Certain Reports Into Secretary's Annual Report to Congress.—Section 1110(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

42 USC 1310.

"(3) All reports of the Secretary with respect to projects carried out under this subsection shall be incorporated into the Secretary's annual report to the Congress required by section 704.".

42 USC 904.

SEC. 12102. DISABILITY ADVISORY COUNCIL.

42 USC 907.

(a) Appointment of Council.—Within ninety days after the date of the enactment of this Act, the Secretary of Health and Human Services shall appoint a special Disability Advisory Council.

(b) Membership of Council.—The Disability Advisory Council shall consist of a Chairman and not more than twelve other persons, appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers, medical and vocational experts from the public or private sector (or from both such sectors), organizations representing disabled people, and the public. The Council shall meet as often as may be necessary for the performance of its duties under this section, but not less often than quarterly.

(c) Duties of Council.—(1) The Advisory Council shall conduct studies and make recommendations with respect to the medical and vocational aspects of disability under both title II and title XVI of the Social Security Act, including studies and recommendations relating to—

42 USC 401, 1381.

(A) the effectiveness of vocational rehabilitation programs for recipients of disability insurance benefits or supplemental security income benefits;

(B) the question of using specialists for completing medical and vocational evaluations at the State agency level in the disability determination process, including the question of requiring, in cases involving impairments other than mental impairments, that the medical portion of each case review (as well as any applicable assessment of residual functional capacity) be completed by an appropriate medical specialist employed by the appropriate State agency before any determination can be made with respect to the impairment involved;

(C) alternative approaches to work evaluation in the case of applicants for benefits based on disability and recipients of such benefits undergoing reviews of their cases, including immediate referral of any such applicant or recipient to a vocational rehabilitation agency for services at the same time he or she is referred to the appropriate State agency for a disability determination;

(D) the feasibility and appropriateness of providing work evaluation stipends for applicants for and recipients of benefits based on disability in cases where extended work evaluation is needed prior to the final determination of their eligibility for such benefits or for further rehabilitation and related services;

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(E) the standards, policies, and procedures which are applied or used by the Secretary of Health and Human Services with respect to work evaluations in order to determine whether such standards, policies, and procedures will provide appropriate screening criteria for work evaluation referrals in the case of applicants for and recipients of benefits based on disability; and

(F) possible criteria for assessing the probability that an applicant for or recipient of benefits based on disability will benefit from rehabilitation services, taking into consideration not only whether the individual involved will be able after rehabilitation to engage in substantial gainful activity but also whether rehabilitation services can reasonably be expected to improve the individual's functioning so that he or she will be able to live independently or work in a sheltered environment.

(2) For purposes of this subsection, "work evaluation" includes (with respect to any individual) a determination of—

(A) such individual's skills,

(B) the work activities or types of work activity for which such individual's skills are insufficient or inadequate,

(C) the work activities or types of work activity for which such individual might potentially be trained or rehabilitated,

(D) the length of time for which such individual is capable of sustaining work (including, in the case of the mentally impaired, the ability to cope with the stress of competitive work), and

(E) any modifications which may be necessary, in work activities for which such individual might be trained or rehabilitated, in order to enable him or her to perform such activities.

(d) PROVISION OF ASSISTANCE TO COUNCIL; COMPENSATION OF MEMBERS.—(1) The Disability Advisory Council is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Secretary of Health and Human Services shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Department of Health and Human Services as the Council may require to carry out such functions.

(2) Appointed members of the Council, while serving on business of the Council (inclusive of traveltime), shall receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

(e) REPORTS.—The Disability Advisory Council shall submit a report (including any interim reports the Council may have issued) of its findings and recommendations to the Secretary of Health and Human Services not later than December 31, 1986; and such report and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of the Federal Disability Insurance Trust Fund.

(f) TERMINATION.—After the date of the transmittal to the Congress of the report required by subsection (e), the Disability Advisory Council shall cease to exist.

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(g) Conforming Amendments.—(1) Section 706 of the Social Security Act is amended— 42 USC 907.

(A) by inserting "except as provided in subsection (e)," immediately before "the Secretary shall appoint" in subsection (a); and

(B) by adding at the end thereof the following new subsection:

"(e) No Advisory Council on Social Security shall be appointed under subsection (a) in 1985 (or in any subsequent year prior to 1989).".

(2) Section 12 of the Social Security Disability Benefits Reform Act of 1984 is repealed. Repeal. 42 USC 907 note.

SEC. 12103. TAXATION OF SOCIAL SECURITY BENEFITS RECEIVED BY CERTAIN CITIZENS OF POSSESSIONS OF THE UNITED STATES.

(a) General Rule.—Section 932 of the Internal Revenue Code of 1954 (relating to citizens of possessions of the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: 26 USC 932.

"(c) Taxation of Social Security Benefits.—If, for purposes of an income tax imposed in the possession, any social security benefit (as defined in section 86(d)) received by an individual described in subsection (a) is treated in a manner equivalent to that provided by section 86, then— 26 USC 86.

"(1) such benefit shall be exempt from the tax imposed by section 871, and *Infra.*

"(2) no amount shall be deducted and withheld from such benefit under section 1441. 26 USC 1441.

Any income tax imposed in a possession which treats social security benefits (as defined in section 86(d)) in a manner equivalent to section 86, and which first becomes effective within 15 months after the date of the enactment of this subsection, shall, for purposes of this section, be deemed to have been in effect as of January 1, 1984.".

(b) Cross Reference.—Paragraph (3) of section 871(a) of such Code is amended by adding at the end thereof (after and below subparagraph (B)) the following new sentence:

"For treatment of certain citizens of possessions of the United States, see section 932(c)."

(c) Effective Date.—The amendments made by this section shall apply to benefits received after December 31, 1983, in taxable years ending after such date. 26 USC 932 note.

SEC. 12104. APPLICATION OF DEPENDENCY TEST TO ADOPTED GREAT-GRANDCHILDREN FOR PURPOSES OF CHILD'S INSURANCE BENEFITS.

(a) Treatment of Grandchildren and Great-Grandchildren Alike.—Section 202(d)(8)(D)(ii)(III) of the Social Security Act is amended by inserting "or great-grandchild" after "grandchild" 42 USC 402.

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to benefits for which application is filed after the date of the enactment of this Act. 42 USC 402 note.

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SEC. 12105. ELIMINATION OF REQUIREMENT FOR PUBLICATION OF REVISIONS IN PRE-1979 BENEFIT TABLE.

Section 215(i)(4) of the Social Security Act is amended by striking out "the Secretary shall publish" and all that follows in the last sentence and inserting in lieu thereof the following: "the Secretary shall revise the table of benefits contained in subsection (a), as in effect in December 1978, in accordance with the requirements of paragraph (2)(D) of this subsection as then in effect, except that the requirement in such paragraph (2)(D) that the Secretary publish such revision of the table of benefits in the Federal Register shall not apply.". 42 USC 415.

SEC. 12106. FORMULA CLARIFICATION.

42 USC 910.

Section 709(b)(1) of the Social Security Act is amended to read as follows:

42 USC 401.
42 USC 1395i.

"(1) the balance in such Trust Fund as of the beginning of such year, including the taxes transferred under section 201(a) on the first day of such year and reduced by the outstanding amount of any loan (including interest thereon) theretofore made to such Trust Fund under section 201(l) or 1817(j), to".

SEC. 12107. EXTENSION OF 15-MONTH REENTITLEMENT PERIOD TO CHILDHOOD DISABILITY BENEFICIARIES SUBSEQUENTLY ENTITLED.

42 USC 402.

(a) IN GENERAL.—Section 202(d)(6)(E) of the Social Security Act is amended by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof "the termination month (as defined in paragraph (1)(G)(i)), subject to section 223(e),".

42 USC 423.

(b) CONFORMING AMENDMENT.—Section 223(e) of such Act is amended by inserting "(d)(6)(A)(ii), (d)(6)(B)," after "(d)(1)(B)(ii),".

42 USC 402 note.

(c) EFFECTIVE DATE.—The amendments made by this section are effective December 1, 1980, and shall apply with respect to any individual who is under a disability (as defined in section 223(d) of the Social Security Act) on or after that date.

SEC. 12108. CHARGING OF WORK DEDUCTIONS AGAINST AUXILIARY BENEFITS IN DISABILITY CASES.

42 USC 403.

(a) IN GENERAL.—(1) Section 203(a)(4) of the Social Security Act is amended by striking out "preceding" in the first sentence.

(2) Section 203(a)(6) of such Act is amended—

(A) by striking out "and (5)" and inserting in lieu thereof "(4), and (5)"; and

(B) by striking out ", whether or not" and all that follows down through "further reduced" and inserting in lieu thereof "shall be reduced".

42 USC 403 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after December 1985.

SEC. 12109. PERFECTING AMENDMENTS TO DISABILITY OFFSET PROVISION.

42 USC 424a.

(a) IN GENERAL.—(1) Section 224(a)(2) of the Social Security Act is amended to read as follows:

"(2) such individual is entitled for such month to—

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"(A) periodic benefits on account of his or her total or partial disability (whether or not permanent) under a workmen's compensation law or plan of the United States or a State, or

42 USC 418.
42 USC 410.

"(B) periodic benefits on account of his or her total or partial disability (whether or not permanent) under any other law or plan of the United States, a State, a political subdivision (as that term is used in section 218(b)(2)), or an instrumentality of two or more States (as that term is used in section 218(k)), other than (i) benefits payable under title 38, United States Code, (ii) benefits payable under a program of assistance which is based on need, (iii) benefits based on service all or substantially all of which was included under an agreement entered into by a State and the Secretary under section 218, and (iv) benefits under a law or plan of the United States based on service all or part of which is employment as defined in section 210,".

42 USC 424a.

(2) Section 224(a)(2)(B) of such Act (as amended by paragraph (1) of this subsection) is further amended by striking out "all or part of which" in clause (iv) and inserting in lieu thereof "all or substantially all of which".

(b) Effective Dates.—(1) The amendment made by subsection (a)(1) shall be effective as though it had been included or reflected in the amendment made by section 2208(a)(3) of the Omnibus Budget Reconciliation Act of 1981.

42 USC 424a note.

42 USC 424a.

(2) The amendment made by subsection (a)(2) shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of individuals who become disabled (within the meaning of section 223(d) of the Social Security Act) after the month in which this Act is enacted.

42 USC 423.

SEC. 12110. STATE COVERAGE AGREEMENTS.

(a) Maximum Period of Retroactive Coverage.—Section 218(f)(1) of the Social Security Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

42 USC 418.

(b) Positions Compensated Solely on Fee Basis.—Section 218(u)(3) of such Act is amended by striking out "is agreed to by the Secretary and the State" and inserting in lieu thereof "is mailed or delivered by other means to the Secretary".

(c) Effective Date.—The amendments made by this section shall apply with respect to agreements and modifications of agreements which are mailed or delivered to the Secretary of Health and Human Services (under section 218 of the Social Security Act) on or after the date of the enactment of this Act.

42 USC 418 note.

SEC. 12111. EFFECT OF EARLY DELIVERY OF BENEFIT CHECKS.

(a) For OASDI Purposes.—Section 708 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 909.

"(c) For purposes of computing the 'OASDI trust fund ratio' under section 201(l), the 'OASDI fund ratio' under section 215(i), and the 'balance ratio' under section 709(b), benefit checks delivered before the end of the month for which they are issued by reason of subsection (a) of this section shall be deemed to have been delivered on the regularly designated delivery date.".

42 USC 401.
42 USC 415.
42 USC 910.

(b) For Income Tax Purposes.—Section 86(d) of the Internal Revenue Code of 1954 (relating to taxation of social security and tier 1 railroad retirement benefits) is amended by adding at the end thereof the following new paragraph:

26 USC 86.

100 STAT. 288

"(5) Effect of early delivery of benefit checks.—For purposes of subsection (a), in any case where section 708 of the Social Security Act causes social security benefit checks to be delivered before the end of the calendar month for which they are issued, the benefits involved shall be deemed to have been received in the succeeding calendar month.".

42 USC 909.

(c) Effective Date.—The amendments made by this section shall apply with respect to benefit checks issued for months ending after the date of the enactment of this Act.

42 USC 909 note.

SEC. 12112. EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR RETIRED FEDERAL JUDGES ON ACTIVE DUTY.

(a) Amendment to Social Security Act.—Section 209 of the Social Security Act is amended in the third to the last paragraph thereof (added by section 101(c)(1) of the Social Security Amendments of 1983) by striking out "shall, subject to the provisions of subsection (a) of this section, include" and inserting in lieu thereof "shall not include".

42 USC 409.

(b) Amendment to Internal Revenue Code.—Section 3121(i)(5) of the Internal Revenue Code of 1954 is amended by striking out "shall, subject to the provisions of subsection (a)(1) of this section, include" and inserting in lieu thereof "shall not include".

26 USC 3121.

(c) Effective Date.—The amendments made by this section shall be effective with respect to service performed after December 31, 1983.

42 USC 409 note.

SEC. 12113. RECOVERY OF OVERPAYMENTS.

42 USC 404. (a) OASDI PAYMENTS.—Section 204(a) of the Social Security Act is amended—

(1) by inserting "(1)" after "204(a)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person was entitled to a monthly benefit on the basis of the same wages and self-employment income as the deceased individual for the month preceding the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

42 USC 1383. (b) SSI PAYMENTS.—Section 1631(b) of the Social Security Act is amended by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), and by inserting after paragraph (1) the following new paragraph:

"(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

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"(A) is made by direct deposit to a financial institution;

"(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

"(C) such other person is the surviving spouse of the deceased individual, and was eligible for a payment under this title (including any State supplementation payment paid by the Secretary) as an eligible spouse (or as either member of an eligible couple) for the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person.".

42 USC 404 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deaths of which the Secretary is first notified on or after the date of the enactment of this Act.

SEC. 12114. COVERAGE OF CONNECTICUT STATE POLICE.

42 USC 418 note. Notwithstanding any provision of section 218 of the Social Security Act, the Secretary of Health and Human Services shall, upon the request of the Governor of Connecticut, modify the agreement under such section between the Secretary and the State of Connecticut to provide that service performed after the date of the enactment of this Act by members of the Division of the State Police within the Connecticut Department of Public Safety, who are hired on or after May 8, 1984, and who are members of the tier II plan of the Connecticut State Employees Retirement System, shall be covered under such agreement.

SEC. 12115. GENERAL EFFECTIVE DATE OF SUBTITLE.

42 USC 415 note. Except as otherwise specifically provided, the preceding provisions of this subtitle, including the amendments made thereby, shall take effect on the first day of the month following the month in which this Act is enacted.

Subtitle B—Supplemental Security Income Program

SEC. 12201. AMENDMENTS RELATING TO STATE SUPPLEMENTATION UNDER SSI.

(a) Passthrough Relating to Optional State Supplementation.—Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 1382g.

"(f) The Secretary shall not find that a State has failed to meet the requirements imposed by subsection (a) with respect to the levels of its supplementary payments for the period January 1, 1984, through December 31, 1985, if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels (other than to recipients of benefits determined under section 1611(e)(1)(B)) are not less than those in effect in December 1976, increased by a percentage equal to the percentage by which payments under section 1611(b) of this Act and section 211(a)(1)(A) of Public Law 93-66 have been increased as a result of all adjustments under section 1617 (a) and (c) which have occurred after December 1976 and before February 1986.".

42 USC 1382.
42 USC 1382 note.
42 USC 1382f.

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(b) Federal Administration of State Supplementation.—Section 1616(b) of such Act is amended by adding at the end thereof (after and below paragraph (2)) the following new sentence:

42 USC 1382e.

"At the option of the State (but subject to paragraph (2) of this subsection), the agreement between the Secretary and such State entered into under subsection (a) shall be modified to provide that the Secretary will make supplementary payments, on and after an effective date to be specified in the agreement as so modified, to individuals receiving benefits determined under section 1611(e)(1)(B).".

42 USC 1382.

SEC. 12202. PRESERVATION OF BENEFIT STATUS FOR DISABLED WIDOWS AND WIDOWERS WHO LOST SSI BENEFITS BECAUSE OF 1983 CHANGES IN ACTUARIAL REDUCTION FORMULA.

(a) In General.—Section 1634 of the Social Security Act is amended—

42 USC 1383c.

(1) by inserting "(a)" after "Sec. 1634.", and

(2) by adding at the end the following new subsection:

"(b)(1) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 202 (e) or (f) but is not eligible for benefits under this title in that month, and who applies for the protection of this subsection under paragraph (3), shall be deemed for purposes of title XIX to be an individual with respect to whom benefits under this title are paid in that month if he or she—

Insurance.
42 USC 402.
42 USC 1396.

"(A) has been continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

"(B) would be eligible for benefits under this title in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustments in such benefits under section 215(i), were disregarded.

42 USC 415.

"(2) For purposes of paragraph (1), the term 'eligible disabled widow or widower' means an individual who—

"(A) was entitled to a monthly insurance benefit under title II for December 1983,

42 USC 401.

"(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 202 (e) or (f) for January 1984 and with respect to whom a benefit under this title was paid in that month, and

42 USC 402 and note.

"(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this title in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

"(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Secretary may prescribe, during the 15-month period beginning with the month in which this subsection is enacted.

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42 USC 1382e.
42 USC 1382 note.
42 USC 1383c note.

"(4) For purposes of this subsection, the term 'benefits under this title' includes payments of the type described in section 1616(a) or of the type described in section 212(a) of Public Law 93-66.".

42 USC 402.
42 USC 1396.
42 USC 1383c.

(b) Identification of Beneficiaries.—(1) As soon as possible after the date of the enactment of this Act, the Secretary of Health and Human Services shall provide each State with the names of all individuals receiving widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act based on a disability who might qualify for medical assistance under the plan of that State approved under title XIX of such Act by reason of the application of section 1634(b) of the Social Security Act.

(2) Each State shall—

(A) using the information so provided and any other information it may have, promptly notify all individuals who may qualify for medical assistance under its plan by reason of such section 1634(b) of their right to make application for such assistance,

(B) solicit their applications for such assistance, and

(C) make the necessary determination of such individuals' eligibility for such assistance under such section and under such title XIX.

42 USC 1383c note.

(c) Effective Date.—The amendment made by subsection (a)(2) shall not have the effect of deeming an individual eligible for medical assistance for any month which begins less than two months after the date of the enactment of this Act.

Subtitle C—AFDC, Adoption Assistance, and Foster Care Programs

SEC. 12301. AFDC QUALITY CONTROL STUDIES AND PENALTY MORATORIUM

42 USC 603 note.
42 USC 601.
42 USC 1396.

(a) Studies.—(1) The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall conduct a study of quality control systems for the Aid to Families with Dependent Children Program under title IV-A of the Social Security Act and for the Medicaid Program under title XIX of such Act. The study shall examine how best to operate such systems in order to obtain information which will allow program managers to improve the quality of administration, and provide reasonable data on the basis of which Federal funding may be withheld for States with excessive levels of erroneous payments.

Contract.

(2) The Secretary shall also contract with the National Academy of Sciences to conduct a concurrent independent study for the purpose described in paragraph (1). For purposes of such study, the Secretary shall provide to the National Academy of Sciences any relevant data available to the Secretary at the onset of the study and on an ongoing basis.

Report.

(3) The Secretary and the National Academy of Sciences shall report the results of their respective studies to the Congress within one year after the date of the enactment of this Act.

(b) **Moratorium on Penalties.**—(1) During the 24-month period beginning with the first calendar quarter which begins after the date of the enactment of this Act (hereafter in this section referred to as the "moratorium period"), the Secretary shall not impose any reductions in payments to States pursuant to section 403(i) of the

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Social Security Act (or prior regulations), or pursuant to any comparable provision of law relating to the programs under title IV-A of such Act in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

(2) During the moratorium period, the Secretary and the States shall continue to operate the quality control systems in effect under title IV-A of the Social Security Act, and to calculate the error rates under the provisions referred to in paragraph (1).

42 USC 603.
42 USC 601.
Puerto Rico.
Guam.
Virgin Islands.
American Samoa.
Northern Mariana Islands.
Regulations.
42 USC 1396.

(c) **Restructured Quality Control Systems.**—(1) Not later than 18 months after the date of the enactment of this Act, the Secretary shall publish regulations which shall—

(A) restructure the quality control systems under titles IV-A and XIX of the Social Security Act to the extent the Secretary determines to be appropriate, taking into account the studies conducted under subsection (a); and

(B) establish, taking into account the studies conducted under subsection (a), criteria for adjusting the reductions which shall be made for quarters prior to the implementation of the restructured quality control systems so as to eliminate reductions for those quarters which would not be required if the restructured quality control systems had been in effect during those quarters.

(2) Beginning with the first calendar quarter after the moratorium period, the Secretary shall implement the revised quality control systems, and shall reduce payments to States—

State and local governments.

(A) for quarters after the moratorium period in accordance with the restructured quality control systems; and

(B) for quarters in and before the moratorium period, as provided under the regulations described in paragraph (1)(B).

(d) **Effective Date.**—This section shall become effective on the date of the enactment of this Act.

SEC. 12303. AFDC AUTOMATION REQUIREMENTS.

(a) **In General.**—Section 402(e)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

42 USC 602.

"(C) If the Secretary determines that such a system has not been implemented by the State by the date specified for implementation in the State's advance automatic data processing planning document, then the Secretary shall reduce payments to such State, in accordance with section 403(b), in an amount equal to 40 percent of the expenditures referred to in section 403(a)(3)(B) with respect to which payments were made to the State under section 403(a)(3)(B). The Secretary may extend the deadline for implementation if the State demonstrates to the satisfaction of the Secretary that the State cannot implement such system by the date specified in such planning document due to circumstances beyond the State's control.".

State and local governments.
42 USC 603.

(b) **Effective Date.**—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act, but shall apply only with respect to sums expended by the States for the purposes described in section 403(a)(3)(B) of the Social Security Act on or after the date of the enactment of this Act.

State and local governments.
42 USC 602 note.

SEC. 12304. THIRD-PARTY LIABILITY.

(a) **In General.**—Section 402(a)(26) of the Social Security Act is amended—

42 USC 602.

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(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon;

(2) by adding "and" after the semicolon at the end of subparagraph (B); and

(3) by adding after subparagraph (B) the following new subparagraph:

State and local governments.

42 USC 1396.

"(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the State's plan for medical assistance under title XIX, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; but the State shall not be subject to any financial penalty in the administration or enforcement of this subparagraph as a result of any monitoring, quality control, or auditing requirements;".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to calendar quarters beginning on or after the date of the enactment of this Act.

SEC. 12305. PROVISIONS RELATING TO MEDICAID COVERAGE UNDER THE ADOPTION ASSISTANCE AND FOSTER CARE PROGRAMS.

42 USC 673.

(a) IN GENERAL.—Section 473(b) of the Social Security Act is amended to read as follows:

42 USC 1396, 1397.

"(b) For purposes of titles XIX and XX, any child—

"(1)(A) who is a child described in subsection (a)(1), and

"(B) with respect to whom an adoption assistance agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

42 USC 672.
42 USC 606.

"(2) with respect to whom foster care maintenance payments are being made under section 472,

shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title in the State where such child resides.".

(b) CONFORMING AMENDMENTS.—(1) Section 473(c)(2) of such Act is amended—

(A) by striking out "without providing adoption assistance" in clause (A) and inserting in lieu thereof "without providing adoption assistance under this section or medical assistance under title XIX"; and

(B) by inserting "or medical assistance under title XIX" before the period at the end thereof.

42 USC 675.

(2) Section 475(3) of such Act is amended by striking out "the adoption assistance payments and any additional services and assistance" in clause (A) of the first sentence and inserting in lieu thereof "any adoption assistance payments and any other services and assistance".

42 USC 1396a.

(3) Section 1902(a)(10)(A)(i)(I) of such Act is amended by striking out "or 406(h)" and inserting in lieu thereof ", 406(h), or 473(b)".

42 USC 673 note.

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(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished in or after the first calendar quarter beginning more than 90 days after the date of the enactment of this Act.

SEC. 12306. EXTENSION OF VOLUNTARY PLACEMENT, AND CEILING AND TRIGGER PROVISIONS, RELATING TO FOSTER CARE.

42 USC 674.

(a) Section 474(b) of the Social Security Act is amended—

(1) in paragraphs (1), (2)(B), and (4)(B), by striking out "1985" and inserting in lieu thereof "1987";

(2) in paragraph (2)(A)—

(A) by inserting "and" at the end of clause (ii), and

(B) by striking out clauses (iii), (iv), and (v) and inserting in lieu thereof the following:

"(iii) with respect to each of the fiscal years 1983 through 1987, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000."; and

42 USC 620.

(3) in paragraph (5)(A)—

(A) by striking out "October 1, 1985" and inserting in lieu thereof "October 1, 1987", and

(B) in clause (ii), by striking out "1984 and 1985" and inserting in lieu thereof "1984 through 1987".

(b) Paragraphs (1) and (2) of section 474(c) of such Act are each amended by striking out "1985" and inserting in lieu thereof "1987".

(c)(1) Section 102(a)(1) of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96–272) is amended by striking out "1985" and inserting in lieu thereof "1987".

42 USC 672 note.

(2) Section 102(c) of such Act is amended by striking out "1985" each place it appears and inserting in iieu thereof "1987".

42 USC 672 note.

SEC. 12307. INDEPENDENT LIVING INITIATIVES.

(a) Independent Living Initiatives.—Part E of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"INDEPENDENT LIVING INITIATIVES

State and local governments.
42 USC 677.

"Sec. 477. (a) Payments shall be made in accordance with this section for the purpose of assisting States and localities in establishing and carrying out programs designed to assist children, with respect to whom foster care maintenance payments are being made by the State under this part and who have attained age 16, in making the transition from foster care to independent living. Any State which provides for the establishment and carrying out of one or more such programs in accordance with this section for a fiscal year shall be entitled to receive payments under this section for such fiscal year, in an amount determined under subsection (e). Such payments shall be made only for the fiscal years 1987 and 1988.

State and local governments.
Contracts.

"(b) The State agency administering or supervising the administration of the State's programs under this part shall be responsible for administering or supervising the administration of the State's programs described in subsection (a). Payment under this section shall be made to the State, and shall be used for the purpose of conducting and providing in accordance with this section (directly or under contracts with local governmental entities or private nonprofit organizations) the activities and services required to carry out the program or programs involved.

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State and local governments.

"(c) In order for a State to receive payments under this section for any fiscal year, the State agency must submit to the Secretary, in such manner and form as the Secretary may prescribe, a description of the program together with satisfactory assurances that the program will be operated in an effective and efficient manner and will otherwise meet the requirements of this section. In the case of payments for fiscal year 1987, such description and assurances must be submitted within 90 days after the Secretary promulgates regulations as required under subsection (i), and in the case of payments for fiscal year 1988, such description and assurances must be submitted prior to January 1, 1988.

"(d) In carrying out the purpose described in subsection (a), it shall be the objective of each program established under this section to help the individuals participating in such program to prepare to live independently upon leaving foster care. Such programs may include (subject to the availability of funds) programs to—

Education.

"(1) enable participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training;

"(2) provide training in daily living skills, budgeting, locating and maintaining housing, and career planning;

"(3) provide for individual and group counseling;

"(4) integrate and coordinate services otherwise available to participants;

"(5) provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the program;

"(6) provide each participant a written transitional independent living plan which shall be based on an assessment of his needs, and which shall be incorporated into his case plan, as described in section 475(1); and

42 USC 675.

"(7) provide participants with other services and assistance designed to improve their transition to independent living.

State and local governments. 42 USC 674.

"(e)(1) The amount to which a State shall be entitled under section 474(a)(4) for each of the fiscal years 1987 and 1988 shall be an amount which bears the same ratio to $45,000,000 as such State's average number of children receiving foster care maintenance payments under this part in fiscal year 1984 bears to the total of the average number of children receiving such payments under this part for all States for fiscal year 1984.

"(2) If any State does not apply for funds under this section for any fiscal year within the time provided in subsection (c), the funds to which such State would have been entitled for such fiscal year shall be reallocated to one or more other States on the basis of their relative need for additional payments under this section (as determined by the Secretary).

"(3) Any amounts payable to States under this section shall be in addition to amounts payable to States under subsections (a)(1), (a)(2), and (a)(3) of section 474, and shall supplement and not replace any other funds which may be available for the same general purposes in the localities involved.

"(f) Payments made to a State under this section for any fiscal year—

"(1) shall be used only for the specific purposes described in this section;

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"(2) may be made on an estimated basis in advance of the determination of the exact amount, with appropriate subsequent adjustments to take account of any error in the estimates; and

"(3) shall be expended by such State in such fiscal year or in the succeeding fiscal year.

Report.

"(g)(1) Not later than March 1, 1988, each State shall submit to the Secretary a report on the programs carried out with the amounts received under this section. Such report—

"(A) shall be in such form and contain such information as may be necessary to provide an accurate description of such activities, to provide a complete record of the purposes for which the funds were spent, and to indicate the extent to which the expenditure of such funds succeeded in accomplishing the purpose described in subsection (a); and

"(B) shall specifically contain such information as the Secretary may require in order to carry out the evaluation under paragraph (2).

"(2) Not later than July 1, 1988, the Secretary, on the basis of the reports submitted by States under paragraph (1) for the fiscal year 1987, and on the basis of such additional information as the Secretary may obtain or develop, shall evaluate the use by States of the payments made available under this section for such fiscal year with respect to the purpose of this section, with the objective of appraising the achievements of the programs for which such payments were made available, and developing comprehensive information and data on the basis of which decisions can be made with respect to the improvement of such programs and the necessity for providing further payments in subsequent years. The Secretary shall report such evaluation to the Congress. As a part of such evaluation, the Secretary shall include, at a minimum, a detailed overall description of the number and characteristics of the individuals served by the programs, the various kinds of activities conducted and services provided and the results achieved, and shall set forth in detail findings and comments with respect to the various State programs and a statement of plans and recommendations for the future.

"(h) Notwithstanding any other provision of this title, payments made and services provided to participants in a program under this section, as a direct consequence of their participation in such program, shall not be considered as income or resources for purposes of determining eligibility (or the eligibility of any other persons) for aid under the State's plan approved under section 402 or 471, or for purposes of determining the level of such aid.

42 USC 602, 671.

"(i) The Secretary shall promulgate final regulations for implementing this section within 60 days after the date of the enactment of this section.".

Regulations.

(b) Case Plans.—Section 475(1) of such Act is amended by adding at the end thereof the following: "Where appropriate, for a child age 16 or over, the case plan must also include a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.".

42 USC 675.

(c) Payments to States.—Section 474(a) of such Act is amended—

42 USC 674.

(1) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; plus"; and

(2) by adding at the end thereof the following new paragraph:

"(4) an amount for transitional independent living programs as provided in section 477.".

Ante, p. 294.

(d) Conforming Amendment.—Section 470 of such Act is amended by striking out "foster care and adoption assistance" and inserting in lieu thereof "foster care, adoption assistance, and transitional independent living programs".

42 USC 670.

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Subtitle D—Provisions Relating to Unemployment Compensation

SEC. 12401. RECOVERY OF UNEMPLOYMENT BENEFIT OVERPAYMENTS.

(a) In General.—(1) Section 303(a)(5) of the Social Security Act is amended by inserting before "; and" at the end thereof the following: ": *Provided further,* That amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g)".

42 USC 503.

(2) Section 303 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) A State may deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

State and local governments.

"(2) Any State may enter into an agreement with the Secretary of Labor under which—

"(A) the State agrees to recover from unemployment benefits otherwise payable to an individual by such State any overpayments made under an unemployment benefit program of the United States to such individual and not previously recovered, in accordance with paragraph (1), and to pay such amounts recovered to the United States for credit to the appropriate account, and

"(B) the United States agrees to allow the State to recover from unemployment benefits otherwise payable to an individual under an unemployment benefit program of the United States any overpayments made by such State to such individual under a State unemployment benefit program and not previously recovered, in accordance with the same procedures as apply under paragraph (1).

"(3) For purposes of this subsection, 'unemployment benefits' means unemployment compensation, trade adjustment allowances, and other unemployment assistance.".

26 USC 3304.

(b) Conforming Amendments.—(1) Section 3304(a)(4) of the Internal Revenue Code of 1954 is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by adding "and" at the end of subparagraph (C); and

(C) by adding at the end thereof the following new subparagraph:

"(D) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act;".

26 USC 3306.

(2) Section 3306(f) of such Code is amended—

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(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) amounts may be deducted from unemployment benefits and used to repay overpayments as provided in section 303(g) of the Social Security Act.".

42 USC 503.
42 USC 503 note.

(c) Effective Date.—The amendments made by this section shall apply to recoveries made on or after the date of the enactment of this Act and shall apply with respect to overpayments made before, on, or after such date.

SEC. 12402. SUPPLEMENTAL UNEMPLOYMENT COMPENSATION FOR CERTAIN INDIVIDUALS.

26 USC 3304 note.

(a) In General.—If—

(1) an individual was receiving Federal supplemental compensation for the week which includes March 31, 1985, or a series of consecutive weeks which began with such week, and

26 USC 3304 note.

(2) such individual did not meet the consecutive-week eligibility requirements of the Federal Supplemental Compensation Act of 1982 during any period of 1 or more subsequent weeks by reason of performing temporary disaster services described in subsection (e),

26 USC 3304 note.

weeks in such period shall be disregarded for purposes of the consecutive-week requirement of section 602(f)(2)(B) of such Act, and, notwithstanding the requirements of State law relating to the availability for work, the active search for work, or the refusal to accept work, such individual shall be entitled to payment of Federal supplemental compensation for each week of unemployment which is described in subsection (b) and for which a certification of unemployment is made by such individual in accordance with subsection (c).

(b) Weeks for Which Payment Shall Be Made.—A week of unemployment for which payment shall be made under subsection (a) is a week which occurred during the period which commences with the first week beginning after the close of the period described in subsection (a)(2) and ends with the beginning of the first week in which the individual was employed after the close of such period.

State and local governments.

(c) Certification.—The certification of unemployment referred to in subsection (a) shall be a certification—

(1) that is made on a form provided by the State agency concerned and signed by the individual; and

(2) that identifies the weeks of unemployment for which the individual is making the certification.

(d) **Limitation on Amount of Payment.**—In no case may the total amount paid to an individual under subsection (a) exceed the amount remaining in the account established for such individual under section 602(e) of the Federal Supplemental Compensation Act of 1982 after payments were made from such account for weeks of unemployment beginning before the period described in subsection (a)(2).

Armed Forces.

(e) **Definition.**—For purposes of subsection (a), the term "temporary disaster services" means services performed as a member of the National Guard after being called up by the Governor of a State to perform services related to a major disaster that was declared on June 3, 1985, by the President of the United States under the Disaster Relief Act of 1974.

42 USC 5121 note.
State and local governments.

(f) **Modification of Agreement.**—(1) The Secretary of Labor shall, at the earliest possible date after the date of the enactment of this Act, propose to any State concerned a modification of the agreement that the Secretary has with such State under section 602 of the Federal Supplemental Compensation Act of 1982 in order to carry out this section.

26 USC 3304 note.

(2) Pending modification of the agreement, the State may make payment in accordance with the provisions of this section and shall be reimbursed in accordance with the provisions of section 604(a) of the Federal Supplemental Compensation Act of 1982. For purposes of carrying out this paragraph, the term "this subtitle" in such section 604(a) shall include this section.

26 USC 3304 note.

(g) **Effective Date.**—The provisions of this section shall apply to weeks beginning after March 31, 1985.

Subtitle E—Restoration of Civil Service Retirement and Disability Fund

SEC. 12501. APPROPRIATION TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND OF INTEREST LOST FROM NONINVESTMENT IN SEPTEMBER 1984.

On December 31, 1985, the Secretary of the Treasury shall pay to the Civil Service Retirement and Disability Fund, from amounts in the general fund of the Treasury not otherwise appropriated, an amount determined by the Secretary to be equal to the sum of—

(1) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning with September 28, 1984, and ending with December 31, 1984, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period;

(2) interest that would have been earned on the amount described in paragraph (1) during the period beginning with January 1, 1985, and ending with June 30, 1985;

(3) the excess of (A) the amount of interest which would have been earned by such fund, during the period beginning on January 1, 1985, and ending on June 30, 1985, on all monies transferred to such fund on September 28, 1984, if all such monies had been invested on September 28, 1984, over (B) the amount of interest actually earned by such fund on such monies during such period; and

(4) the interest that would have been earned on the amounts described in paragraphs (1), (2), and (3) during the period beginning with July 1, 1985, and ending with December 31, 1985.

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TITLE XIII—REVENUES, TRADE, AND RELATED PROGRAMS

Subtitle A—Trade and Customs Provisions

PART 1—TRADE ADJUSTMENT ASSISTANCE

Trade Adjustment Assistance Reform and Extension Act of 1986.
19 USC 2101 note.

SEC. 13001. SHORT TITLE.

This part may be cited as the "Trade Adjustment Assistance Reform and Extension Act of 1986".

SEC. 13002. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

Agriculture and agricultural commodities.

(a) WORKERS.—Sections 221(a) and 222 of the Trade Act of 1974 (19 U.S.C. 2271(a); 2272) are each amended by inserting "(including workers in any agricultural firm or subdivision of an agricultural firm)" after "group of workers".

(b) FIRMS.—

(1) Subsections (a) and (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341) are each amended by inserting "(including any agricultural firm)" after "a firm".

(2) Paragraph (2) of section 251(c) of the Trade Act of 1974 (19 U.S.C. 2341(c)(2)) is amended to read as follows:

"(2) that—

"(A) sales or production, or both, of the firm have decreased absolutely, or

"(B) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and".

SEC. 13003. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN JOB SEARCH PROGRAM REQUIRED.—

(1) Subsection (a) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(a)) is amended by adding at the end thereof the following new paragraph:

"(5) Such worker, unless the Secretary has determined that no acceptable job search program is reasonably available—

"(A) is enrolled in a job search program approved by the Secretary under section 237(c), or

19 USC 2297.

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a job search program approved by the Secretary under section 237(c).".

(2) Section 231 of the Trade Act of 1974 (19 U.S.C. 2291) is amended by adding at the end thereof the following new subsection:

"(c) If the Secretary determines that—

"(1) the adversely affected worker—

"(A) has failed to begin participation in the job search program the enrollment in which meets the requirement of subsection (a)(5), or

"(B) has ceased to participate in such job search program before completing such job search program, and

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"(2) there is no justifiable cause for such failure or cessation, no trade readjustment allowance may be paid to the adversely affected worker under this part on or after the date of such determination until the adversely affected worker begins or resumes participation in a job search program approved under section 237(c).".

(3) Subsection (a) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(a)) is amended—

(A) by striking out "training," in clause (2) and inserting in lieu thereof "training and job search programs,"; and

(B) by striking out "and (3)" and inserting in lieu thereof "(3) will make determinations and approvals regarding job search programs under sections 231(c) and 237(c), and (4)".

19 USC 2291, 2297.

(b) QUALIFYING WEEKS OF EMPLOYMENT.—The last sentence of section 231(a)(2) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended by striking out all that follows after subparagraph (C) and inserting in lieu thereof "shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in paragraph (A) or (C), or both, may be treated as weeks of employment under this sentence.".

(c) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out "under any Federal law," in subsection (c) and inserting in lieu thereof "under any Federal law other than this Act",

(2) by striking out "under section 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(c) or 236(c)", and

(3) by striking out "If the training allowance" in subsection (c) and inserting in lieu thereof "If such training allowance".

(d) LIMITATIONS.—

(1) Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended by striking out "52-week period" and inserting in lieu thereof "104-week period".

(2) Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end thereof the following new subsection:

"(e) No trade readjustment allowance shall be paid to a worker under this part for any week during which the worker is receiving on-the-job training.".

SEC. 13004. JOB TRAINING FOR WORKERS.

(a) IN GENERAL.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out "for a worker" in subsection (a)(1)(A) and inserting in lieu thereof "for an adversely affected worker",

(2) by striking out "may approve" in the first sentence of subsection (a)(1) and inserting in lieu thereof "shall (to the extent appropriated funds are available) approve",

(3) by striking out "under paragraph (1)" in subsection (a)(2) and inserting in lieu thereof "under subsection (a)",

(4) by striking out "this subsection" in subsection (a)(3) and inserting in lieu thereof "this section",

(5) by redesignating paragraphs (2) and (3) of subsection (a) as subsections (e) and (f), respectively,

(6) by inserting at the end of subsection (a) the following new paragraphs:

Employment and unemployment.

"(2) For purposes of applying paragraph (1)(C), a reasonable expectation of employment does not require that employment opportunities for a worker be available, or offered, immediately upon the completion of training approved under this paragraph (1).

Prohibition.

"(3)(A) If the costs of training an adversely affected worker are paid by the Secretary under paragraph (1), no other payment for such costs may be made under any other provision of Federal law.

Prohibition.

"(B) No payment may be made under paragraph (1) of the costs of training an adversely affected worker if such costs—

"(i) have already been paid under any other provision of Federal law, or

"(ii) are reimbursable under any other provision of Federal law and a portion of such costs have already been paid under such other provision of Federal law.

Prohibition.

"(C) The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law which are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if such use has the effect of indirectly paying or reducing any portion of the costs involved in training the adversely affected worker.

"(4) The training programs that may be approved under paragraph (1) include, but are not limited to—

"(A) on-the-job training,

29 USC 1653.

"(B) any training program provided by a State pursuant to section 303 of the Job Training Partnership Act,

29 USC 1512.

"(C) any training program approved by a private industry council established under section 102 of such Act, and

"(D) any other training program approved by the Secretary.", and

(7) by inserting after subsection (c) the following new subsection:

Contracts.

(d) Notwithstanding any provision of subsection (a)(1), the Secretary may pay the costs of on-the-job training of an adversely affected worker under subsection (a)(1) only if—

"(1) no currently employed worker is displaced by such adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits),

"(2) such training does not impair existing contracts for services or collective bargaining agreements,

"(3) in the case of training which would be inconsistent with the terms of a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained,

"(4) no other individual is on layoff from the same, or any substantially equivalent, job for which such adversely affected worker is being trained,

"(5) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring such adversely affected worker,

"(6) the job for which such adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals,

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"(7) such training is not for the same occupation from which the worker was separated and with respect to which such worker's group was certified pursuant to section 222,

19 USC 2272.

"(8) the employer certifies to the Secretary that the employer will continue to employ such worker for at least 26 weeks after completion of such training if the worker desires to continue such employment and the employer does not have due cause to terminate such employment,

"(9) the employer has not received payment under subsection (a)(1) with respect to any other on-the-job training provided by such employer which failed to meet the requirements of paragraphs (1), (2), (3), (4), (5), and (6), and

"(10) the employer has not taken, at any time, any action which violated the terms of any certification described in paragraph (8) made by such employer with respect to any other on-the-job training provided by such employer for which the Secretary has made a payment under subsection (a)(1).".

(b) ON-THE-JOB TRAINING DEFINED.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended by adding at the end thereof the following new paragraph:

"(16) The term "on-the-job training" means training provided by an employer to an individual who is employed by the employer.".

(c) AGREEMENTS WITH THE STATES.—Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended—

(1) by amending subsection (a)(2) by inserting "but in accordance with subsection (f)," after "where appropriate,"; and

(2) by adding at the end thereof the following new subsections:

"(e) Agreements entered into under this section may be made with one or more State or local agencies including—

"(1) the employment service agency of such State,

"(2) any State agency carrying out title III of the Job Training Partnership Act, or 29 USC 1651.

"(3) any other State or local agency administering job training or related programs.

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each adversely affected worker to apply for training under section 236(a) at the time the worker makes application for trade readjustment allowances (but failure of the worker to do so may not be treated as cause for denial of those allowances), and 19 USC 2296.

"(2) within 60 days after application for training is made by the worker, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

SEC. 13005. JOB SEARCH ALLOWANCES.

(a) IN GENERAL.—Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall reimburse any adversely affected worker for necessary expenses incurred by such worker in participating in a job search program approved by the Secretary.".

(b) DEFINITIONS.—Section 247 of the Trade Act of 1974 (19 U.S.C. 2319), as amended by section 13004(b) of this Act, is further amended by adding at the end thereof the following new paragraph: 100 STAT. 304

"(17)(A) The term 'job search program' means a job search workshop or job finding club.

"(B) The term 'job search workshop' means a short (1 to 3 days) seminar designed to provide participants with knowledge that will enable the participants to find jobs. Subjects are not limited to, but should include, labor market information, resume writing, interviewing techniques, and techniques for finding job openings.

"(C) The term 'job finding club' means a job search workshop which includes a period (1 to 2 weeks) of structured, supervised activity in which participants attempt to obtain jobs.".

SEC. 13006. ADJUSTMENT ASSISTANCE FOR FIRMS.

(a) TECHNICAL ASSISTANCE.—

(1) Paragraph (1) of section 252(b) of the Trade Act of 1974 (19 U.S.C. 2342(b)(1)) is amended to read as follows:

"(1) Adjustment assistance under this chapter consists of technical assistance. The Secretary shall approve a firm's application for adjustment assistance only if the Secretary determines that the firm's adjustment proposal—

"(A) is reasonably calculated to materially contribute to the economic adjustment of the firm,

"(B) gives adequate consideration to the interests of the workers of such firm, and

"(C) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.".

(2) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

(3) Paragraph (2) of section 253(b) of the Trade Act of 1974 (19 U.S.C. 2343(b)(2)) is amended by striking out "such cost" and

inserting in lieu thereof "such cost for assistance described in paragraph (2) or (3) of subsection (a)".

(b) NO NEW LOANS OR GUARANTEES.—Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this chapter, no direct loans or guarantees of loans may be made under this chapter after the date of enactment of the Trade Adjustment Assistance Reform and Extension Act of 1986.". *Ante*, p. 300.

SEC. 13007. EXTENSION AND TERMINATION OF TRADE ADJUSTMENT ASSISTANCE.

(a) IN GENERAL.—Section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended—

(1) by striking out the first sentence thereof and inserting in lieu thereof "(a)",

(2) by striking out the section heading and inserting in lieu thereof "SEC. 285. TERMINATION.", and

(3) by adding at the end thereof the following new subsection:

"(b) No assistance, allowances, or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 1991.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 285 and inserting in lieu thereof the following:

"Sec. 285. Termination.".

SEC. 13008. AUTHORIZATION OF APPROPRIATIONS.

(a) WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1982 through 1985" and inserting in lieu thereof "1986, 1987, 1988, 1989, 1990, and 1991".

(b) FIRMS.—Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended—

(1) by inserting "for fiscal years 1986, 1987, 1988, 1989, 1990, and 1991" after "to the Secretary",

(2) by striking out "from time to time", and

(3) by striking out the last sentence thereof.

19 USC 2291 note.

SEC. 13009. EFFECTIVE DATES; APPLICATION OF GRAMM-RUDMAN.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) JOB SEARCH PROGRAM REQUIREMENTS.—The amendments made by section 13003(a) apply with respect to workers covered by petitions filed under section 221 of the Trade Act of 1974 on or after the date of the enactment of this Act. 19 USC 2271.

(c) EXTENSION AND AUTHORIZATION.—Chapters 2 and 3 of title II of the Trade Act of 1974 (19 U.S.C. 2271, et seq.) shall be applied as if the amendments made by sections 13007 and 13008 had taken effect on December 18, 1985.

Sequestration. Report.

(d) APPLICATION OF GRAMM-RUDMAN.—Trade readjustment allowances payable under part I of chapter 2 of title II of the Trade Act of 1974 for the period from March 1, 1986, and until October 1, 1986, shall be reduced by a percentage equal to the non-defense sequester percentage applied in the Sequestration Report (submitted under the Balanced Budget and Emergency Deficit Control Act of 1985 and dated January 21, 1986) of the Comptroller General of the United States for fiscal year 1986. 2 USC 901 note.

PART 2—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

SEC. 13021. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1986 not to exceed $28,901,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 13022. UNITED STATES CUSTOMS SERVICE.

(a) Authorization of Appropriations.—Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $772,141,000 for the salaries and expenses of the United States Customs Service for fiscal year 1986; of which—

100 STAT. 306

"(A) $27,900,000 is for the addition of 500 inspectors, 150 import specialists, 100 customs patrol officers, and 50 special agents;

"(B) $53,500,000 is for the operation and maintenance of the air interdiction program of the Service; and

"(C) not to exceed $14,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.

50 USC app. 2401 note.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1985—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.

"(3)(A) No part of any sum that is appropriated under the authority of paragraph (1) may be used for further research and development or acquisition of F-15 avionics for the P-3 aircraft and related equipment until 60 days after the Committee on Ways and Means and the Committee on Finance have received from the Secretary of the Treasury a written comparative assessment of the suitability of the P-3, E-2, or other appropriate aircraft for use by the Customs Service in its air drug interdiction program. Such assessment, which the Secretary may not submit to the Committees until the General Accounting Office study required under paragraph (7) is completed, shall include life cycle costs.

Prohibition.
Aircraft and air carriers.
Drugs and drug abuse.

"(B) Acquisition of additional aircraft for use by the Customs Service for its air drug interdiction program after completion of the assessment required under subparagraph (A) shall be subject to competitive bidding through the use of the normal 'request for proposal' process.

"(4) No part of any sum that is appropriated under the authority of paragraph (1) may be used to consolidate the drawback liquidation centers within the Customs Service to less than 4 such centers. If a consolidation is undertaken, the Commissioner of Customs shall select the location of the centers after taking into account the drawback volume at, and the geographic dispersion of, the respective centers being considered for consolidation.

"(5) In addition to any sum authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Treasury for fiscal year 1986 not to exceed $8,000,000 from the Customs Forfeiture Fund for the making of payments under section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b), of which not to exceed $5,000,000 may be used for the modification of aircraft (whether or not aircraft described in subsection (a)(5) of that section) for drug interdiction.

"(6) In addition to any other amounts authorized to be appropriated for the Customs Service for fiscal years 1987 and 1988, there are authorized to be appropriated $27,900,000 for each of such fiscal years to fund the additional personnel referred to in paragraph (1)(A).

Study.

"(7) As soon as possible after the date of the enactment of this paragraph, but not later than 12 months after that date, the General Accounting Office shall complete, and submit to the Committee on Ways and Means and the Committee on Finance, a study that

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evaluates the air detection and interdiction capability of the Customs Service, including assets, geographic dispersal, costs of operation, procurement practices, and the services and equipment provided by other Federal agencies. Within 6 months after commencing the study, the General Accounting Office shall consult with the Committees on the progress of the study."; and

(2) by adding at the end thereof the following new subsections:

"(f) USE OF SAVINGS RESULTING FROM ADMINISTRATIVE CONSOLIDATIONS.—If savings in salaries and expenses result from the consolidation of administrative functions within the Customs Service, the Commissioner of Customs shall apply those savings, to the extent they are not needed to meet emergency requirements of the Service, to strengthening the commercial operations of the Service by increasing the number of inspector, import specialist, patrol officer, and other line operational positions.

"(g) ALLOCATION OF RESOURCES.—The Commissioner of Customs shall ensure that existing levels of commercial services, including inspection and control, classification, and value, shall continue to be provided by Customs personnel assigned to the headquarters office of any Customs district designated by statute before the date of enactment of this subsection. The number of such personnel assigned to any such district headquarters shall not be reduced through attrition or otherwise, and such personnel shall be afforded the opportunity to maintain their proficiency through training and workshops to the same extent provided to Customs personnel in any other district. Automation and other modernization equipment shall be made available, as needed on a timely basis, to such headquarters to the same extent as such equipment is made available to any other district headquarters.".

Prohibition.

(b) ELIMINATION OF SURETIES ON CUSTOMS BONDS.—(1) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds—

Report.

(A) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing—

(i) the text of the draft final rule;

(ii) an analysis of the revenue impact of the rule;

(iii) a regulatory impact analysis;

(iv) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(v) a justification for each revision to be effected by the rule; and

(B) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under subparagraph (A).

SEC. 13023. UNITED STATES TRADE REPRESENTATIVE.

Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) is amended—

(1) by inserting before the semicolon at the end of subsection (d)(1) the following: ", except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed

the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code"; and

(2) by amending subsection (f)(1) by striking out "$14,179,000 for fiscal year 1985" and inserting in lieu thereof "$13,582,000 for fiscal year 1986".

SEC. 13024. NOTIFICATION OF CERTAIN ACTIONS.

Section 237 of the Trade and Tariff Act of 1984 (98 Stat. 2993) is amended—

(1) by striking out "1985" in subsection (b) and inserting in lieu thereof "1986";

(2) by striking out subsection (c);

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) The notice required under subsection (a) shall include—

"(1) a statement which sets forth in detail the factors taken into account in making the decision to take the action described in subsection (a) and the reasons for such action; and

"(2) an analysis of the impact such action will have on the commerce and community served by each office affected by such action.".

PART 3—CUSTOMS FEES

SEC. 13031. FEES FOR CERTAIN CUSTOMS SERVICES.

Vessels.
Railroads.
Aircraft and air carriers.
19 USC 58c.

(a) SCHEDULE OF FEES.—In addition to any other fee authorized by law, the Secretary of the Treasury shall charge and collect the following fees for the provision of customs services in connection with the following:

(1) For the arrival of a commercial vessel of 100 net tons or more, $397.

(2) Subject to the limitation in subsection (b)(2), for the arrival of a commercial truck, $5.

(3) Subject to the limitations in subsection (b)(1)(B) and (3), for the arrival of each railroad car, whether passenger or freight, $5.

(4) For all arrivals made during a calendar year by a private vessel or private aircraft, $25.

(5) For the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)), $5.

(6) For each item of dutiable mail for which a document is prepared by a customs officer, $5.

(7) For each customs broker permit held by an individual, partnership, association, or corporate customs broker, $125 per year.

Prohibition.
19 USC 58c.

(b) LIMITATIONS ON FEES.—(1) No fee may be charged under subsection (a) for customs services provided in connection with—

(A) the arrival of any passenger whose journey originated in—

(i) Canada,

(ii) Mexico,

(iii) a territory or possession of the United States, or

(iv) any adjacent island (within the meaning of section 101(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(5)); or

(B) the arrival of any railroad car that is part of a train which originates and terminates in the same country, but only if—

(i) such car is part of such train when such train departs from the United States, and

(ii) no passengers board or disembark from such train, and no cargo is loaded or unloaded from such train, while such train is within any country other than the country in which such train originates and terminates.

(2) No fee may be charged under subsection (a)(2) for the arrival of a commercial truck during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such commercial truck during such calendar year.

(3) No fee may be charged under subsection (a)(3) for the arrival of a railroad car whether passenger or freight during any calendar year after a total of $100 in fees has been paid to the Secretary of the Treasury for the provision of customs services for all arrivals of such passenger or freight rail car during such calendar year.

19 USC 58c.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "vessel" does not include any ferry.

(2) The term "arrival" means arrival at a port of entry in the customs territory of the United States.

(3) The term "customs territory of the United States" has the meaning given to such term by headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States.

19 USC 1202.

(4) The term "customs broker permit" means a permit issued under section 641(c) of the Tariff Act of 1930 (19 U.S.C. 1641(c)).

Transportation.
Aircraft and air carriers.
Vessels.
19 USC 58c.

(d) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the customs territory of the United States shall—

(A) collect from that individual the fee charged under subsection (a)(5) at the time the document or ticket is issued; and

(B) separately identify on that document or ticket the fee charged under subsection (a)(5) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the customs territory of the United States is issued in a foreign country; and

(B) the fee charged under subsection (a)(5) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the customs territory of the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Secretary of the Treasury at any time before the date that is 31 days after the close of the calendar quarter in which the fees are collected.

Aircraft and air carriers.
19 USC 58c.

(e) PROVISION OF CUSTOMS SERVICES.—(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States on scheduled airline flights at customs serviced airports shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers.

(2) This subsection shall not apply with respect to any airport to which section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) applies.

19 USC 58c.

(f) DISPOSITION OF FEES.—(1) Notwithstanding section 524 of the Tariff Act of 1930 (19 U.S.C. 1524), all of the fees collected under subsection (a) shall be deposited in a separate account within the general fund of the Treasury of the United States. Such account shall be known as the "Customs User Fee Account".

(2)(A) The Secretary of the Treasury shall refund out of the Customs User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Secretary of the Treasury of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amounts required to be refunded under subparagraph (A).

(g) REGULATIONS.—The Secretary of the Treasury may prescribe such rules and regulations as may be necessary to carry out the provisions of this section. 19 USC 58c.

(h) CONFORMING AMENDMENTS.—(1) Subsection (i) of section 305 of the Rail Passenger Service Act (45 U.S.C. 545(i)) is amended by striking out the last sentence thereof.

(2) Subsection (e) of section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741(e)) is repealed. 49 USC app. 1741.

(i) EFFECT ON OTHER AUTHORITY.—Except with respect to customs services for which fees are imposed under subsection (a), nothing in this section shall be construed as affecting the authority of the Secretary of the Treasury to charge fees under section 214(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a). 19 USC 58c.

(j) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the provisions of this section, and the amendments and repeals made by this section, shall apply with respect to customs services rendered after the date that is 90 days after the date of enactment of this Act. 19 USC 58c.

(2) Fees may be charged under subsection (a)(5) only with respect to customs services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after the date that is 90 days after such date of enactment.

SEC. 13032. USER FEES FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended—

(1) by striking out "4 airports" in subsection (c) and inserting in lieu thereof "20 airports"; and

(2) by striking out the last sentence in subsection (e) and inserting in lieu thereof the following new sentences: "The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account any expenses incurred by the Federal Government in providing customs services at such airport (including expenses incurred for the salaries and expenses of individuals employed to provide such services). None of the funds deposited into such account shall be available for any purpose other than making payments authorized under the preceding sentence.". Prohibition.

SEC. 13033. ADVISORY COMMITTEE.

19 USC 2071 note.

In accordance with the provisions of the Federal Advisory Committee Act, the Secretary of the Treasury shall establish an advisory committee, whose membership shall consist of representatives from the airline, shipping, and other transportation industries, the general public, and others who may be subject to any fee or charge (1) authorized by law, or (2) proposed by the United States Customs Service for the purpose of covering expenses incurred by the Customs Service. The advisory committee shall meet on a periodic basis and shall advise the Secretary on issues related to the performance of the customs services. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Secretary shall give substantial consideration to the views of the advisory committee in the exercise of his duties. 5 USC app.

Subtitle B—General Revenue Provisions

SEC. 13200. AMENDMENT OF 1954 CODE.

26 USC 1 *et seq.*

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 13201. INCREASE IN TAX ON CIGARETTES MADE PERMANENT.

26 USC 5701 note.

(a) Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to increase in tax on cigarettes) is amended by striking out all that follows "December 31, 1982" and inserting in lieu thereof a period.

State and local governments.
26 USC 5701 note.

(b) For purposes of all Federal and State laws, the amendment made by subsection (a) shall be treated as having taken effect on March 14, 1986.

SEC. 13202. TAX ON SMOKELESS TOBACCO.

26 USC 5701.

(a) In General.—Section 5701 (relating to rate of tax) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) Smokeless Tobacco.—On smokeless tobacco, manufacturered in or imported into the United States, there shall be imposed the following taxes:

"(1) Snuff.—On snuff, 24 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

"(2) Chewing tobacco.—On chewing tobacco, 8 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.".

(b) Conforming Amendments.—

(1) The heading of chapter 52 is amended by inserting "SMOKELESS TOBACCO," after "CIGARETTES,".

100 STAT. 312

26 USC 5702.

(2) Section 5702(c) (defining tobacco products) is amended by striking out "and cigarettes" and inserting in lieu thereof ", cigarettes, and smokeless tobacco".

(3) Section 5702(d) (defining manufacturers of tobacco products) is amended by striking out "cigars or cigarettes" each place it appears and inserting in lieu thereof "cigars, cigarettes, or smokeless tobacco".

(4) Section 5702 is amended by adding at the end thereof the following new subsection:

"(n) Definitions Relating to Smokeless Tobacco.—

"(1) Smokeless tobacco.—The term 'smokeless tobacco' means any snuff or chewing tobacco.

"(2) Snuff.—The term 'snuff' means any finely cut, ground, or powdered tobacco that is not intended to be smoked.

"(3) Chewing tobacco.—The term 'chewing tobacco' means any leaf tobacco that is not intended to be smoked.".

26 USC 5701 note.

(c) Effective Date.—

(1) In general.—The amendments made by this section shall apply to smokeless tobacco removed after June 30, 1986.

(2) Transitional rule.—Any person who—

(A) on the date of the enactment of this Act, is engaged in business as a manufacturer of smokeless tobacco, and

26 USC 5711.

(B) before July 1, 1986, submits an application under subchapter B of chapter 52 of the Internal Revenue Code of 1954 to engage in such business,

26 USC 5701 *et seq.*

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of such Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture smokless tobacco under such chapter 52.

SEC. 13203. INCREASE IN EXCISE TAX ON COAL.

(a) Increase in Tax.—Subsections (a) and (b) of section 4121 (relating to imposition of tax on coal) are amended to read as follows: 26 USC 4121.

"(a) Tax Imposed.—

"(1) In general.—There is hereby imposed on coal from mines located in the United States sold by the producer, a tax equal to the rate per ton determined under subsection (b).

"(2) Limitation on tax.—The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage (determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

"(b) Determination of Rates and Limitation on Tax.—For purposes of subsection (a), in the case of sales during any calendar year beginning after December 31, 1985—

"(1) the rate of tax on coal from underground mines shall be $1.10,

"(2) the rate of tax on coal from surface mines shall be $.55, and

"(3) the applicable percentage shall be 4.4 percent.".

(b) 5-Year Moratorium on Interest Accruals With Respect to the Indebtedness of the Black Lung Disability Trust Fund.—No interest shall accrue for the period beginning on October 1, 1985, and ending on September 30, 1990, with respect to any repayable advance to the Black Lung Disability Trust Fund. 26 USC 9501 note.

100 STAT. 313

(c) Existing Reduction in Rates for Period After Temporary Increase Retained.—So much of subsection (e) of section 4121 (relating to temporary increase in amount of tax) as precedes paragraph (2) is amended to read as follows: 26 USC 4121.

"(e) Reduction in Amount of Tax.—

"(1) In general.—Effective with respect to sales after the temporary increase termination date, subsection (b) shall be applied—

"(A) by substituting '$.50' for '$1.10',

"(B) by substituting '$.25' for '$.55', and

"(C) by substituting '2 percent' for '4.4 percent'.".

(d) Effective Date.—The amendments made by this section shall apply to sales after March 31, 1986. 26 USC 4121 note.

SEC. 13204. ONLY RAILROAD RETIREMENT BENEFITS EQUIVALENT TO SOCIAL SECURITY BENEFITS TREATED AS TIER 1 BENEFITS.

(a) In General.—Paragraph (4) of section 86(d) (defining Social Security benefits) is amended to read as follows: 26 USC 86.

"(4) Tier 1 railroad retirement benefit.—For purposes of paragraph (1), the term 'tier 1 railroad retirement benefit' means—

"(A) the amount of the annuity under the Railroad Retirement Act of 1974 equal to the amount of the benefit to which the taxpayer would have been entitled under the Social Security Act if all of the service after December 31, 1936, of the employee (on whose employment record the annuity is being paid) had been included in the term 'employment' as defined in the Social Security Act, and 45 USC 231. 42 USC 1305 *et seq.*

"(B) a monthly annuity amount under section 3(f)(3) of the Railroad Retirement Act of 1974.". 45 USC 231b.

(b) Effective Date.—The amendment made by subsection (a) shall apply to any monthly benefit for which the generally applicable payment date is after December 31, 1985. 26 USC 86 note.

SEC. 13205. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, NEWLY HIRED STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) Application of Hospital Insurance Tax to Newly Hired Employees of State and Local Governments.—

(1) In general.—Subsection (u) of section 3121 (relating to 26 USC 3121.

application of hospital insurance tax to Federal employment) is amended to read as follows:

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL, STATE, AND LOCAL EMPLOYMENT.—

26 USC 3101, 3111.

"(1) FEDERAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b), subsection (b) shall be applied without regard to paragraph (5) thereof.

"(2) STATE AND LOCAL EMPLOYMENT.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), subsection (b) shall be applied without regard to paragraph (7) thereof.

"(B) EXCEPTION FOR CERTAIN SERVICES.—Service shall not be treated as employment by reason of subparagraph (A) if—

42 USC 418.

"(i) the service is included under an agreement under section 218 of the Social Security Act, or

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"(ii) the service is performed—

"(I) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

District of Columbia.

"(II) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(III) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(IV) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this subparagraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b) of the Social Security Act.

42 USC 418.

"(C) EXCEPTION FOR CURRENT EMPLOYMENT WHICH CONTINUES.—Service performed for an employer shall not be treated as employment by reason of subparagraph (A) if—

"(i) such service would be excluded from the term 'employment' for purposes of this chapter if subparagraph (A) did not apply;

"(ii) such service is performed by an individual—

"(I) who was performing substantial and regular service for remuneration for that employer before April 1, 1986,

"(II) who is a bona fide employee of that employer on March 31, 1986, and

"(III) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(iii) the employment relationship with that employer has not been terminated after March 31, 1986.

"(D) TREATMENT OF AGENCIES AND INSTRUMENTALITIES.—For purposes of subparagraph (C), under regulations—

District of Columbia.

42 USC 418.

"(i) All agencies and instrumentalities of a State (as defined in section 218(b) of the Social Security Act) or of the District of Columbia shall be treated as a single employer.

"(ii) All agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in clause (i).

"(3) **MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.**—For purposes of this chapter, the term 'medicare qualified government employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraphs (1) and (2), but

"(B) would not be employment (as so defined) without the application of such paragraphs."

(2) **CONFORMING AMENDMENTS.**—

(A)(i) Section 3125 (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by redesignated subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

26 USC 3125.
Guam.
American Samoa.
District of Columbia.

"(a) **STATES.**—Except as otherwise provided in this section, in the case of the taxes imposed by sections 3101(b) and 3111(b) with respect to service performed in the employ of a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby), the return and payment of such taxes may be made by the head of the agency or instrumentality having the control of such service, or by such agents as such head may designate. The person making such return may, for convenience of administration, make payments of the tax imposed under section 3111 with respect to the service of such individuals without regard to the contribution and benefit base limitation in section 3121(a)(1)."

26 USC 3101, 3111.

(ii) The section heading for such section 3125 is amended by inserting "STATES," before "GUAM".

(iii) The item relating to section 3125 in the table of sections for subchapter C of chaper 21 is amended by inserting "States," before "Guam".

(B) Subsection (b) of section 1402 is amended by striking out "medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "medicare qualified government employment (as defined in section 3121(u)(3))".

26 USC 1402.
26 USC 3121.

(C) Section 3122 (relating to Federal service) is amended by striking out "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))" and inserting in lieu thereof "including such service which is medicare qualified government employment (as defined in section 3121(u)(3))".

26 USC 3122.

(D) Subsection (a) of section 6205 (relating to special rules applicable to certain employment taxes) is amended by adding at the end thereof the following new paragraph:

26 USC 6205.

"(5) **STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

26 USC 3125.

(E)(i) Section 6413(a) (relating to adjustment of certain employment taxes) is amended by adding at the end thereof the following new paragraph:

26 USC 6413.

"(5) **STATES AND POLITICAL SUBDIVISIONS AS EMPLOYER.**—For purposes of this subsection, in the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by

26 USC 3125.

26 USC 6413.

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either, who makes a return pursuant to section 3125 shall be deemed a separate employer."

(ii) Section 6413(c)(2) (relating to special refunds of certain employment taxes) is amended—

(I) by striking out "3125(a)", "3125(b)", and "3125(c)" in subparagraphs (D), (E), and (F), respectively, and inserting in lieu thereof "3125(b)", "3125(c)", and "3125(d)", respectively, and

(II) by adding at the end thereof the following new subparagraph:

"(G) EMPLOYEES OF STATES AND POLITICAL SUBDIVISIONS.—In the case of remuneration received from a State or any political subdivision thereof (or any instrumentality of any one or more of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer."

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) REVISION OF DEFINITION OF MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—Section 210(p)) of the Social Security Act (42 U.S.C. 410(p)) is amended to read as follows:

"MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT

State and local government.
42 USC 426, 426-1.

"(p)(1) For purposes of sections 226 and 226A, the term 'medicare qualified government employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(A) subsection (a)(5), or

"(B) subsection (a)(7), except as provided in paragraphs (2) and (3).

"(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—

"(A) by an individual who is employed by a State or political subdivision thereof to relieve him from unemployment,

"(B) in a hospital, home, or other institution by a patient or inmate thereof as an employee of a State or political subdivision thereof or of the District of Columbia,

"(C) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

"(D) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

42 USC 418.

As used in this paragraph, the terms 'State' and 'political subdivision' have the meanings given those terms in section 218(b).

"(3) Service performed for an employer shall not be treated as employment by reason of paragraph (1)(B) if—

"(A) such service would be excluded from the term 'employment' for purposes of this section if paragraph (1)(B) did not apply;

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"(B) such service is performed by an individual—

"(i) who was performing substantial and regular service for remuneration for that employer before April 1, 1986,

"(ii) who is a bona fide employee of that employer on March 31, 1986, and

"(iii) whose employment relationship with that employer was not entered into for purposes of meeting the requirements of this subparagraph; and

"(C) the employment relationship with that employer has not been terminated after March 31, 1986.

"(4) For purposes of paragraph (3), under regulations (consistent with regulations established under section 3121(u)(2)(D) of the Internal Revenue Code of 1954)—

26 USC 3121.

"(A) all agencies and instrumentalities of a State (as defined in section 218(b)) or of the District of Columbia shall be treated as a single employer, and

42 USC 418.

"(B) all agencies and instrumentalities of a political subdivision of a State (as so defined) shall be treated as a single employer and shall not be treated as described in subparagraph "(A)."

(2) Entitlement to hospital insurance benefits.—

(A) For individuals age 65 or older and for disabled individuals.—Section 226 of such Act (42 U.S.C. 426) is amended by striking out "medicare qualified Federal employment" in subsections (a)(2)(C)(i) and (b)(2)(C)(ii)(I) and inserting in lieu thereof "medicare qualified government employment".

(B) For individuals with end-stage renal disease.—Section 226A(a) of such Act (42 U.S.C. 426-1(a)) is amended by striking out "medicare qualified Federal employment" in paragraphs (1)(A)(ii) and (1)(B)(iii) and inserting in lieu thereof "medicare qualified government employment".

(C) Conforming amendments.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by striking out "Federal employment" in clauses (1) and (2) and inserting in lieu thereof "government employment".

(ii) Section 226(g) of such Act (42 U.S.C. 426(g)) is amended by striking out "medicare qualified Federal employment" and inserting in lieu thereof "medicare qualified government employment by virtue of service described in section 210(a)(5)".

42 USC 410.

(c) Optional Medicare Coverage of Current Employees.—Section 218 of the Social Security Act (42 U.S.C. 418) is amended by adding at the end the following new subsection:

"(v)(1) The Secretary shall, at the request of any State, enter into or modify an agreement with such State under this section for the purpose of extending the provisions of title XVIII, and sections 226 and 226A, to services performed by employees of such State or any political subdivision thereof who are described in paragraph (2).

State and local government.
42 USC 1395c, 426.
42 USC 426-1.

"(2) This subsection shall apply only with respect to employees—

"(A) whose services are not treated as employment as that term applies under section 210(p) by reason of paragraph (3) of such section; and

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"(B) who are not otherwise covered under the State's agreement under this section.

"(3) Payments by the State required under subsection (e) with respect to employees covered under this subsection shall be limited

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to amounts equivalent to the sum of the taxes which would be imposed by sections 3101(b) and 3111(b) of the Internal Revenue Code of 1954 if such services for which wages were paid to such employees constituted 'employment' as defined in section 3121 of such Code.

26 USC 3101, 3111.
26 USC 3121.

"(4) For purposes of sections 226 and 226A of this Act, services covered under an agreement pursuant to this subsection shall be treated as 'medicare qualified government employment'.

42 USC 426, 426-1.

"(5) Except as otherwise provided in this subsection, the provisions of this section shall apply with respect to services covered under the agreement pursuant to this subsection.

"(w) Notwithstanding sections 3125(a), 6205(a)(5), 6413(a)(5), and 6413(c)(2)(G) of the Internal Revenue Code of 1954, any State shall make payments of the taxes imposed with respect to services of employees of such State and of a political subdivision thereof under sections 3101(b) and 3111(b) of such Code, and reports of such services, under the same procedures as apply to payments and

26 USC 3125, 6205, 6413.

reports under subsection (e) of this section, but only if any employees of such State or of such political subdivision thereof respectively are covered under an agreement pursuant to this section.".

26 USC 3121 note.

(d) Effective Dates.—

(1) Hospital insurance taxes.—The amendments made by subsection (a) shall apply to services performed after March 31, 1986.

42 USC 410 note.

(2) Medicare coverage.—

(A) In general.—The amendments made by subsection (b) shall be effective after March 31, 1986, and the amendments made by paragraph (3) of that subsection shall apply to services performed (for medicare qualified government employment) after that date.

42 USC 1395c.

(B) Treatment of certain disabilities.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b), no individual may be considered to be under a disability for any period beginning before April 1, 1986.

42 USC 418 note.

(3) Optional coverage of current employees.—The amendment made by subsection (c) shall apply to services performed after March 31, 1986.

SEC. 13206. FULL-TIME STUDENTS NOT ELIGIBLE FOR INCOME AVERAGING.

26 USC 1303.

(a) In General.—Subsection (d) of section 1303 (defining eligible individuals for income averaging) is amended to read as follows:

"(d) Eligible Individuals Not To Include Full-Time Students.—

"(1) In general.—For purposes of this part, an individual shall not be an eligible individual for the computation year if, at any time during any base period year, such individual was a student.

"(2) Exception for married students providing 25 percent or less of joint income.—Paragraph (1) shall not apply to any individual for any computation year if—

"(A) the individual makes a joint return for the computation year, and

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"(B) not more than 25 percent of the aggregate adjusted gross income of such individual and the spouse of such individual for such computation year is attributable to such individual. In applying subparagraph (B), amounts which constitute earned income (within the meaning of section 911(d)(2)) and are community income under commuity property laws applicable to such income shall be taken into account as if such amounts did not constitute community income.

26 USC 911.

"(3) Student defined.—For purposes of this subsection, the term 'student' means, with respect to a taxable year, an individual who during each of 5 calendar months during such taxable year—

26 USC 170.

"(A) was a full-time student at an educational organization described in section 170(b)(1)(A)(ii); or

"(B) was pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.".

26 USC 1303.

(b) Repeal of Non-Full-Time Student Support Exception.—Paragraph (2) of section 1303(c) (relating to individuals receiving support from others) is amended—

(1) by striking out subparagraph (A),

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), and

(3) by striking out "subparagraph (C)" in the second sentence and inserting in lieu thereof "subparagraph (B)".

(c) **Effective Date.**—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1985. 26 USC 1303 note.

SEC. 13207. APPLICATION OF FRINGE BENEFIT RULES TO AIRLINES AND THEIR AFFILIATES.

(a) **Parents of Airline Employees Treated as Employees in Applying Fringe Benefit Rules.**—

(1) **In general.**—Section 132(f) (relating to certain individuals treated as employees with respect to certain fringe benefits) is amended by adding at the end thereof the following new paragraph: 26 USC 132.

"(3) **Special rule for parents in the case of air transportation.**—Any use of air transportation by a parent of an employee (determined without regard to paragraph (1)(B)) shall be treated as use by the employee.".

(2) **Effective date.**—The amendment made by this subsection shall take effect on January 1, 1985. 26 USC 132 note.

(b) **Line of Business Test for Affiliates Providing Airline-Related Services.**—

(1) **In general.**—Section 132(h) (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(6) **Special rule for affiliates of airlines.**—

"(A) **In general.**—If—

"(i) a qualified affiliate is a member of an affiliated group another member of which operates an airline, and

"(ii) employees of the qualified affiliate who are directly engaged in providing airline-related services are entitled to no-additional-cost service with respect to air transportation provided by such other member,

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then, for purposes of applying paragraph (1) of subsection (a) to such no-additional-cost service provided to such employees, such qualified affiliate shall be treated as engaged in the same line of business as such other member.

"(B) **Qualified affiliate.**—For purposes of this paragraph, the term 'qualified affiliate' means any corporation which is predominantly engaged in airline-related services.

"(C) **Airline-related services.**—For purposes of this paragraph, the term 'airline-related services' means any of the following services provided in connection with air transportation:

"(i) Catering.

"(ii) Baggage handling.

"(iii) Ticketing and reservations.

"(iv) Flight planning and weather analysis.

"(v) Restaurants and gift shops located at an airport.

"(vi) Such other similar services provided to the airline as the Secretary may prescribe.

"(D) **Affiliated group.**—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a).". 26 USC 1504.

(2) **Effective date.**—The amendment made by this subsection shall take effect on January 1, 1985. 26 USC 132 note.

(c) **Transitional Rule for Determination of Line of Business in Case of Affiliated Group Operating Airline.**—If, as of September 12, 1984— 26 USC 132 note.

(1) an individual—

(A) was an employee (within the meaning of section 132 of the Internal Revenue Code of 1954, including subsection (f) thereof) of one member of an affiliated group (as defined in section 1504 of such Code), hereinafter referred to as the "first corporation", and 26 USC 132. 26 USC 1504.

(B) was eligible for no-additional-cost service in the form of air transportation provided by another member of such affiliated group, hereinafter referred to as the "second corporation",

(2) at least 50 percent of the individuals performing service for the first corporation were or had been employees of, or had previously performed services for, the second corporation, and

(3) the primary business of the affiliated group was air transportation of passengers,

then, for purposes of applying paragraphs (1) and (2) of section 132(a) of the Internal Revenue Code of 1954, with respect to no-additional-cost services and qualified employee discounts provided after December 31, 1984, for such individual by the second corporation, the first corporation shall be treated as engaged in the same air transportation line of business as the second corporation. For purposes of the preceding sentence, an employee of the second corporation who is performing services for the first corporation shall also be treated as an employee of the first corporation. 26 USC 132.

26 USC 132 note. (d) SPECIAL RULE FOR SERVICES RELATED TO PROVIDING AIR TRANSPORTATION.—Section 531 of the Tax Reform Act of 1984 is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

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26 USC 132 note. "(g) SPECIAL RULE FOR CERTAIN SERVICES RELATED TO AIR TRANSPORTATION.—

"(1) IN GENERAL.—If—

"(A) an individual performs services for a qualified air transportation organization, and

"(B) such services are performed primarily for persons engaged in providing air transportation and are of the kind which (if performed on September 12, 1984) would qualify such individual for no-additional-cost services in the form of air transportation,

then, with respect to such individual, such qualified air transportation organization shall be treated as engaged in the line of business of providing air transportation.

"(2) QUALIFIED AIR TRANSPORTATION ORGANIZATION.—For purposes of paragraph (1), the term 'qualified air transportation organization' means any organization—

"(A) if such organization (or a predecessor) was in existence on September 12, 1984,

"(B) if—

"(i) such organization is described in section 501(c)(6) of the Internal Revenue Code of 1954 and the membership of such organization is limited to entities engaged in the transportation by air of individuals or property for compensation or hire, or 26 USC 501.

"(ii) such organization is a corporation all the stock of which is owned entirely by entities referred to in clause (i), and

"(C) if such organization is operated in furtherance of the activities of its members or owners.".

SEC. 13208. CERTAIN INSOLVENT TAXPAYERS ALLOWED TO REDUCE CAPITAL GAINS PREFERENCE ITEM FOR PURPOSES OF THE INDIVIDUAL MINIMUM TAX.

26 USC 57. (a) IN GENERAL.—Paragraph (9) of section 57(a) (relating to capital gains as items of tax preference) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) Reduction limited to amount of insolvency.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) Farm insolvency transaction.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness or 100 STAT. 322

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) Insolvent.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) Applicable percentage.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a). 26 USC 1202.

"(vi) Farmland.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)). 26 USC 2032A.

"(vii) Farmer.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

(b) Effective Date.—The amendment made by this section shall apply to transfers or sales or exchanges made after December 31, 1981, in taxable years ending after such date. 26 USC 57 note.

SEC. 13209. TREATMENT OF CERTAIN POLLUTION CONTROL BONDS.

(a) General Rule.—For purposes of subparagraph (F) of section 103(b)(4) of the Internal Revenue Code of 1954 (relating to pollution control facilities), any obligation issued after December 31, 1985, shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve control of pollutants. The provisions of section 103(b)(17) of such Code (relating to prohibition on acquisition of existing property not permitted) shall not apply to any obligation described in the preceding sentence. 26 USC 103.

(b) $200,000,000 Limitation.—The aggregate amount of obligations to which subsection (a) applies shall not exceed $200,000,000, except that the amount of such obligations issued during calendar year 1986 to which subsection (a) applies shall not exceed $100,000,000.

(c) Restrictions.—Subsection (a) shall apply only if—

(1) the amount paid (directly or indirectly) for the facilities does not exceed their fair market value,

(2) the fees or charges imposed (directly or indirectly) on any seller for the use of any facilities after the sale are not less than the amounts charged for the use of such facilities to persons other than the seller,

(3) the original use of the facilities acquired with the proceeds of such obligations commenced before September 3, 1982, and

(4) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

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(d) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this section, the term "qualified regional pollution control authority" means an authority which—

(1) is a political subdivision created by State law to control air or water pollution,

(2) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivision),

(3) operates air or water pollution control facilities, and

(4) was created on September 1, 1969.

26 USC 103.

(e) REPEAL OF SECTION 103(b)(11).—Paragraph (11) of section 103(b) is hereby repealed.

SEC. 13210. TREATMENT OF THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.

26 USC 1388.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules applicable to cooperatives) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR THE NETTING OF GAINS AND LOSSES BY COOPERATIVES.—For purposes of this subchapter, in the case of any organization to which part I of this subchapter applies—

26 USC 1381.

"(1) OPTIONAL NETTING OF PATRONAGE GAINS AND LOSSES PERMITTED.—The net earnings of such organization may, at its option, be determined by offsetting patronage losses (including any patronage loss carried to such year) which are attributable to 1 or more allocation units (whether such units are functional, divisional, departmental, geographic, or otherwise) against patronage earnings of 1 or more other such allocation units.

"(2) CERTAIN NETTING PERMITTED AFTER SECTION 381 TRANSACTIONS.—If such an organization acquires the assets of another such organization in a transaction described in section 381(a), the acquiring organization may, in computing its net earnings for taxable years ending after the date of acquisition, offset losses of 1 or more allocation units of the acquiring or acquired organization against earnings of the acquired or acquiring organization, respectively, but only to the extent—

26 USC 381.

"(A) such earnings are properly allocable to periods after the date of acquisition, and

"(B) such earnings could have been offset by such losses if such earnings and losses had been derived from allocation units of the same organization.

"(3) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—In the case of any organization which exercises its option under paragraph (1) for any taxable year, such organization shall, on or before the 15th day of the 9th month following the close of such taxable year, provide to its patrons a written notice which—

"(i) states that the organization has offset earnings and losses from 1 or more of its allocation units and that such offset may have affected the amount which is being distributed to its patrons,

"(ii) states generally the identity of the offsetting allocation units, and

"(iii) states briefly what rights, if any, its patrons may have to additional financial information of such organization under terms of its charter, articles of incorporation, or bylaws, or under any provision of law.

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"(B) Certain information need not be provided.—An *organization may exclude from the information* required to be provided under clause (ii) of subparagraph (A) any detailed or specific data regarding earnings or losses of such units which such organization determines would disclose commercially sensitive information which—

"(i) could result in a competitive disadvantage to such organization, or

"(ii) could create a competitive advantage to the benefit of a competitor of such organization.

"(C) Failure to provide sufficient notice.—If the Secretary determines that an organization failed to provide sufficient notice under this paragraph—

"(i) the Secretary shall notify such organization, and

"(ii) such organization shall, upon receipt of such notification, provide to its patrons a revised notice meeting the requirements of this paragraph.

Any such failure shall not affect the treatment of the organization under any provision of this subchapter or section 521. 26 USC 521.

"(4) Patronage earnings or losses defined.—For purposes of this subsection, the terms 'patronage earnings' and 'patronage losses' means earnings and losses, respectively, which are derived from business done with or for patrons of the organization."

(b) Tax-Exempt Status Not Affected by Netting.—Section 521(b) (relating to applicable rules) is amended by adding at the end thereof the following new paragraph: 26 USC 521.

"(6) Netting of losses.—Exemption shall not be denied any such association because such association computes its net earnings for purposes of determining any amount available for distribution to patrons in the manner described in paragraph (1) of section 1388(j)." *Ante*, p. 323.

(c) Effective Date.— 26 USC 1388 note.

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1962.

(2) Notification requirement.—The provisions of section 1388(j)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to taxable years beginning on or after the date of the enactment of this Act.

(3) No inference.—Nothing in the amendments made by this section shall be construed to infer that a change in law is intended as to whether any patronage earnings may or not be offset by nonpatronage losses, and any determination of such issue shall be made as if such amendments had not been enacted.

SEC. 13211. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Subsection (c) of section 126 of the Deficit Reduction Act of 1984 is amended— 26 USC 861 note.

(1) by striking out "1985" and inserting in lieu thereof "1986"; and

(2) by striking out "3rd" each place it appears and inserting in lieu thereof "4th".

100 STAT. 325

SEC. 13212. LIMITATION ON ISSUANCE OF UNITED STATES BONDS.

Subsection (a) of section 3102 of title 31, United States Code, is amended by striking out "$200,000,000,000" and inserting in lieu thereof "$250,000,000,000".

SEC. 13213. AUTHORIZATION OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE FOR REVENUE ENFORCEMENT AND RELATED PURPOSES, ETC.

(a) AUTHORIZATION.—There is authorized to be appropriated $46,500,000 for each of the fiscal years 1986, 1987, and 1988 for the use of the Internal Revenue Service to employ 1,550 additional agents and examination employees.

(b) RESTORATION OF PROPOSED CUTS.—It is the sense of the Congress that—

(1) the restoration of the cuts in the budget for the Internal Revenue Service for fiscal year 1986, and

(2) the further increase in such budget total,

recommended by the Committee on Appropriations of the House of Representatives are necessary for the efficient operation of the Government and to carry out the purposes of this Act.

Subtitle C—Provisions Relating to Unemployment Taxes

SEC. 13301. RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) RATE OF TAX.—Subsection (c) of section 3321 of the Internal 26 USC 3321. Revenue Code of 1954 (relating to rate of railroad unemployment repayment tax) is amended to read as follows:

"(c) RATE OF TAX.—For purposes of this section—

"(1) IN GENERAL.—The applicable percentage for any taxable period shall be the sum of—

"(A) the basic rate for such period, and

"(B) the surtax rate (if any) for such period.

"(2) BASIC RATE.—For purposes of paragraph (1)—

"(A) FOR PERIODS BEFORE 1989.—The basic rate shall be—

"(i) 4.3 percent for the taxable period beginning on July 1, 1986, and ending on December 31, 1986,

"(ii) 4.7 percent for the 1987 taxable period, and

"(iii) 6 percent for the 1988 taxable period.

"(B) FOR PERIODS AFTER 1988.—For any taxable period beginning after December 31, 1988, the basic rate shall be the sum of—

"(i) 2.9 percent, plus

"(ii) 0.3 percent for each preceding taxable period after 1988.

In no event shall the basic rate under this subparagraph exceed 5 percent.

"(3) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

"(A) 3.5 percent for any taxable period if, as of September 30 of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment 45 USC 360. Insurance Act, and

"(B) zero for any other taxable period.

"(4) BASIC RATE NOT TO APPLY TO RAIL WAGES PAID AFTER SEPTEMBER 30, 1990.—The basic rate under paragraph (1)(A) shall not apply to rail wages paid after September 30, 1990."

(b) BASE OF TAX TO BE COMPENSATION USED FOR RAILROAD RETIRE- 26 USC 3323. MENT TAX PURPOSES.—Subsection (b) of section 3323 of such Code (defining rail wages) is amended to read as follows:

"(b) RAIL WAGES.—

"(1) IN GENERAL.—For purposes of this chapter, the term 'rail 26 USC 3231. 26 USC 3201. wages' means compensation (as defined in section 3231(e) for purposes of the tax imposed by section 3201(a)) with the modifications specified in paragraph (2).

"(2) Modifications.—In applying subsection (e) of section 3231 for purposes of paragraph (1)—

"(A) Only employment covered by railroad unemployment insurance act taken into account.—Such subsection (e) shall be applied—

"(i) by substituting 'rail employment' for 'services' each place it appears,

"(ii) by substituting 'rail employer' for 'employer' each place it appears, and

"(iii) by substituting 'rail employee' for 'employee' each place it appears.

"(B) $7,000 wage base.—Such subsection (e) shall be applied by substituting for 'the applicable base' in paragraph (2)(A)(i) thereof—

"(i) except as provided in clauses (ii) and (iii),'$7,000',

"(ii) '$3,500' for the taxable period beginning on July 1, 1986, and ending on December 31, 1986, and

"(iii) for purposes of applying the basic rate under section 3321(c)(1)(A), '$5,250' for the taxable period beginning on January 1, 1990. 26 USC 3321.

"(C) Successor employers.—For purposes of this subsection, rules similar to the rules applicable under section 3231(e)(2)(C) shall apply."

(c) Use of Taxes.—

(1) In general.—Paragraph (2) of section 232(a) of the Railroad Retirement Revenue Act of 1983 (relating to tax used to repay loans made to railroad unemployment insurance account) is amended to read as follows: 45 USC 231n note.

"(2) Taxes credited against loans to railroad unemployment insurance account.—

"(A) Taxes attributable to basic rate to reduce railroad unemployment loans made before October 1, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954 shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made before October 1, 1985.

"(B) Taxes attributable to surtax rate to reduce railroad unemployment loans made after September 30, 1985.—So much of the amount transferred under paragraph (1) as is attributable to the surtax rate under section 3321(c)(1)(B) of such Code shall be credited against, and operate to reduce, the outstanding balance of railroad unemployment loans made after September 30, 1985."

100 STAT. 327

(2) Transfers to railroad unemployment fund after loan repaid.—Subsection (c) of section 232 of such Act is amended— 45 USC 231n note.

(A) by striking out "the amount" in paragraph (1) and inserting in lieu thereof "the amount described in subparagraph (A) or (B) of subsection (a)(2)", and

(B) by inserting before the comma at the end of paragraph (2) "against which the amount described in such subparagraph may be credited under such subparagraph".

(d) Technical Amendments.—

(1) Subsection (a) of section 3322 of such Code (relating to taxable period) is amended— 26 USC 3322.

(A) by adding "and" at the end of paragraph (1), and

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) each calendar year after 1986."

(2) Subsection (b) of section 3322 of such Code (relating to earlier termination if loans to rail unemployment fund repaid) is amended—

(A) by striking out "The tax imposed by this chapter shall not apply" and inserting in lieu thereof "The basic rate under section 3321(c)(1)(A) of the tax imposed by section 3321 shall not apply", and

(B) by inserting "made before October 1, 1985," after "no balance of transfers" in paragraph (1) thereof.

SEC. 13302. EXTENSION OF BORROWING AUTHORITY UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

45 USC 360.

Section 10(d) of the Railroad Unemployment Insurance Act is amended by striking out the last sentence thereof.

SEC. 13303. CERTAIN EXEMPTIONS FROM THE FEDERAL UNEMPLOYMENT TAX ACT.

26 USC 3306.

(a) Certain Agricultural Labor.—Paragraph (1)(B) of section 3306(c) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "January 1, 1986," and inserting in lieu thereof "January 1, 1988".

26 USC 3306 note.

(b) Full-Time Students Employed by Summer Camps.—Notwithstanding paragraph (3) of section 276(b) of the Tax Equity and Fiscal Responsibility Act of 1982, the amendments made by paragraphs (1) and (2) of such section 276(b) shall also apply to remuneration paid after September 19, 1985.

26 USC 3306 note.

(c) Services Performed on Certain Fishing Boats.—

(1) In general.—Section 822(b) of the Economic Recovery Tax Act of 1981 is amended to read as follows:

"(b) Effective Date.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1980.".

26 USC 3121.

(2) Technical amendment.—Paragraph (20) of section 312(b) of such Code (defining employment for purposes of Federal Insurance Contributions Act) is amended by inserting "(other than service described in paragraph (3)(A))" after "service".

TITLE XIV—REVENUE SHARING

SEC. 14001. TERMINATION OF GENERAL REVENUE SHARING.

Repeal.
31 USC 6701 *et seq.*

(a) In General.—(1) Except as otherwise provided in this section, chapter 67 of title 31, United States Code, is hereby repealed.

31 USC 6701 note.
100 STAT. 328
Post, p. 329.
Ante, p. 327.

(2) The Secretary of the Treasury shall continue to be the trustee of the Trust Fund, which shall remain in existence until all entitlement payments which are required to be made under the Revenue Sharing Act are made in accordance with the terms of such Act. Any funds remaining in the Trust Fund after all of such entitlement payments are completely made shall revert to the General Fund of the Treasury of the United States.

31 USC 6701 note.

(3) The Secretary is authorized to take such necessary or appropriate actions, to carry out the requirements of this Act with respect to funds appropriated to the Trust Fund, as were authorized under the terms of the Revenue Sharing Act, including but not limited to enforcement of the regulatory provisions concerning nondiscrimination, audits, accounting procedures, public hearings, expenditures in accordance with State and local law, and cooperation with reasonable requests for information.

State and local government.
31 USC 6701 note.

(4) The Secretary may increase or decrease a payment to a unit of general local government under the Revenue Sharing Act for the entitlement period ending September 30, 1986, to account for a prior underpayment or overpayment only if the increase or decrease is demanded by the Secretary or such unit of general local government before June 2, 1986.

State and local government.
31 USC 6701 note.

(5) Amounts paid to units of general local government from the Trust Fund shall be used, obligated, or appropriated by the units of general local government before October 1, 1987, and shall continue to be subject to the terms of the Revenue Sharing Act.

31 USC 6701 note.

(6) Subsection (a)(1) of this section shall not have the effect of releasing or extinguishing any fiscal sanction, finding, determination, compliance agreement, or other duly authorized action for the

purpose of sustaining any proper action or prosecution for enforcement authorized under the terms of the Revenue Sharing Act.

State and local government.
Courts, U.S.
31 USC 6701 note.

(7) The Attorney General, and persons adversely affected by a practice of a local government, may bring a civil action in an appropriate district court of the United States against the applicable unit of general local government as authorized under the Revenue Sharing Act. The court is authorized to grant such relief as was authorized under the terms of the Revenue Sharing Act.

31 USC 6701 note.
Report.

(8) The Secretary shall report to Congress on the operation and status of the Trust Fund and the implementation of this section not later than December 1 of each year the Trust Fund remains on the books of the Department of the Treasury.

(b) Conforming Amendments.—(1) The table of chapters for subtitle V of title 31, United States Code, is amended by striking out the item relating to chapter 67.

(2) Paragraph (2) of section 1115(b) of the Social Security Act (42 U.S.C. 1315(b)(2)) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

(3) Section 501(b)(6) of the Housing Act of 1949 (42 U.S.C. 1471(b)(6)) and section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)) are each amended by striking out "or under chapter 67 of title 31, United States Code" and inserting in lieu thereof "or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

31 USC 6701 *et seq.*

100 STAT. 329

(4) Section 302 of the Age Discrimination Act of 1975 (42 U.S.C. 6101) is amended by striking out ", including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 et seq.)".

(5) Paragraph (3) of section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502(3)) is amended by striking out subparagraph (A) and redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(6) Subparagraph (B) of section 119(n)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(2)(B)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

31 USC 6701 *et seq.*

(7) Paragraph (1) of section 248(h) of the National Housing Act (12 U.S.C. 1715z-13(h)(1)) is amended by striking out "is an eligible recipient under chapter 67 of title 31, United States Code" and inserting in lieu thereof "was an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter".

31 USC 6701 note.

(c) Definitions.—For purposes of this section—

(1) The term "Trust Fund" means the State and Local Government Fiscal Assistance Trust Fund established under the Revenue Sharing Act.

Infra.
Ante, p. 327.

(2) The term "Revenue Sharing Act" means the provisions of chapter 67 of title 31, United States Code, as in effect on the day before the date of enactment of this Act and subject to the terms of any appropriation Act of fiscal year 1986.

(3) The term "Secretary" means the Secretary of the Treasury.

31 USC 6701 note.

(d) Authorization of Appropriations.—There are hereby authorized to be appropriated for fiscal year 1987 such sums as may be necessary to administer the provisions of this section.

31 USC 6701 note.

(e) Effective Dates.—(1) Except as otherwise provided in this subsection, the repeal and amendments made by this section, and the provisions of this section, shall take effect on the earlier of—

(A) the date of the adjournment sine die of the 99th Congress, or

(B) December 31, 1986,

unless the provisions of chapter 67 of title 31, United States Code, are amended before the earlier of such dates to apply to any entitlement period beginning after September 30, 1986.

(2) The provisions of subsections (a)(4), (c), and (d) shall take effect on the date of enactment of this Act.

(3) Nothing in this section shall be construed to prevent the payment of any allocation for the entitlement period ending September 30, 1986.

100 STAT. 330

TITLE XV—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Postal Service Programs

SEC. 15101. REVENUE FORGONE.

39 USC 2401 note.

Notwithstanding subsection (c) of section 2401 of title 39, United States Code, the amount authorized to be appropriated pursuant to such subsection for fiscal year 1986 shall be $749,000,000.

SEC. 15102. DELAY OF STEP 16 RATES; ELIMINATION OF PHASING SCHEDULE; TERMINATION OF REDUCTION IN RATES OF POSTAGE FOR CERTAIN MAILERS.

(a) Delay of Step 16 Rates.—The increase in rates of postage for non-profit and certain other mailers announced by the Board of Governors of the United States Postal Service in Resolution No. 85-7 (adopted September 6, 1985) shall not take effect before January 1, 1986.

(b) Elimination of Phasing Schedule.—(1) Section 3626(a) of title 39, United States Code, is amended to read as follows:

39 USC 4358, 4452, 4554.

"(a)(1) Except as provided in paragraph (2) of this subsection, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with applicable provisions of this chapter.

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be.".

Effective date.

39 USC 3626 note.

(2) The amendment made by this subsection shall apply with respect to rates of postage taking effect after December 31, 1985.

(c) Termination of Reduction in Rates of Postage for Certain Mailers.—Section 3626 of title 39, United States Code, is amended by adding at the end thereof the following:

"(f) In the administration of this chapter, the rates for mail under former section 4358(g) of this title shall be established without regard to either the provisions of such former section 4358(g) or the provisions of this section.".

SEC. 15103. STUDY AND REPORT.

(a) Period of Study.—The Postal Rate Commission shall study and, within 6 months after the date of the enactment of this Act, transmit to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the matters described in subsection (b).

(b) Purpose of Study.—The purpose of the study under this section is—

(1) to develop recommendations for legislation which would reduce the amount of revenue forgone with respect to former sections 4355(a), 4355(b), 4358(d), 4452(b), 4452(c), 4554(b) and 4554(c) of title 39, United States Code, by changing the eligi-

bility requirements under which the reduced rates of postage under those sections would apply to mail which advertises or promotes the sale of, recommends the purchase of, or announces the availability of any article, product, service, insurance, or travel arrangements;

(2)(A) to identify the kinds of mailers which are the most frequent users of, or which otherwise significantly benefit from, rates for mail under subsections (a), (b), and (c) of former section 4358 of title 39, United States Code; and

(B) to examine the arguments for and against making the eligibility requirements for the rates referred to in subparagraph (A) more stringent, taking into consideration—

(i) the findings under subparagraph (A);

(ii) costs and benefits to the public; and

(iii) any other factor which may be appropriate; and

(3) to develop one or more alternatives for the method currently used by the United States Postal Service in computing revenue forgone (as determined with respect to the provisions of law referred to in section 2401(c) of title 39, United States Code) and to determine the advantages and disadvantages of each such alternative.

(c) In preparing its report under this section, the Postal Rate Commission shall invite and consider the views of interested parties.

(d) The United States Postal Service shall, upon request of the Postal Rate Commission, cooperate in the conduct of the study and the preparation of the report under this section.

SEC. 15104. RESTRICTION RELATING TO ELIGIBILITY FOR IN-COUNTY SECOND-CLASS RATES OF POSTAGE.

Section 3626 of title 39, United States Code, as amended by section 15102(c) of this Act, is further amended by adding at the end thereof the following:

"(g)(1) In the administration of this section, the rates for mail under subsections (a), (b), and (c) of former section 4358 of this title shall not apply to an issue of a publication if the number of copies of such issue distributed within the county of publication is less than the number equal to the sum of 50 percent of the total paid circulation of such issue plus one.

39 USC 4358.

"(2) Paragraph (1) of this subsection shall not apply to an issue of a publication if the total paid circulation of such issue is less than 10,000 copies.".

SEC. 15105. CURBING OF SUBSIDIES FOR ADVERTISING-ORIENTED "PLUS ISSUES" MAILED TO SUBSCRIBERS AT IN-COUNTY RATES.

Section 3626 of title 39, United States Code, as amended by sections 15102(c) and 15104 of this Act, is further amended by adding at the end thereof the following:

"(h) In the administration of this section, the number of copies of a subscription publication mailed to nonsubscribers during a calendar year at rates under subsections (a), (b), and (c) of former section 4358 of this title may not exceed 10 percent of the number of copies of such publication mailed at such rates to subscribers.".

Subtitle B—Civil Service Programs

SEC. 15201. PAY ADJUSTMENTS.

5 USC 5305 note.

(a) LIMITATION ON PAY ADJUSTMENTS FOR STATUTORY PAY SYSTEMS.—(1) The rates of pay under the General Schedule and the rates of pay under the other statutory pay systems referred to in section 5301(c) of title 5, United States Code, shall not be adjusted under section 5305 of such title during fiscal year 1986.

President of U.S.

(2)(A)(i) For fiscal years 1987 and 1988, the President shall provide for the adjustment of rates of pay under section 5305 of title 5, United States Code, as appropriate to reduce outlays, relating to pay of officers and employees of the Federal Government, by at least $746,000,000 in fiscal year 1987 and $1,264,000,000 in fiscal year 1988 (without regard to reductions in outlays which result by reason of subparagraph (B)(ii) of this paragraph, paragraph (1) of this subsection, subsection (b) of this section, and the application of section 1009 of title 37, United States Code), computed using the baseline used for the First Concurrent Resolution on the Budget for Fiscal Year 1986 (S. Con. Res. 32, 99th Congress), agreed to on August 1, 1985.

(ii) Clause (i) of this subparagraph shall not be construed to suspend the requirements of section 5305 of title 5, United States Code, with respect to fiscal years 1987 and 1988.

(B) Each adjustment in a pay rate or schedule which takes effect pursuant to subparagraph (A) of this paragraph—

(i) shall, to the maximum extent practicable, be of the same percentage; and

(ii) shall be effective with respect to pay periods beginning on or after January 1 of the fiscal year involved.

5 USC 5343 note.

(b) LIMITATION ON PAY ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES.—(1) Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee described in section 5342(a)(2) of title 5, United States Code, or an employee covered by section 5348 of such title, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2)) during—

(A) fiscal year 1986, shall (except to the extent permitted by section 616(a)(2) of H.R. 5798, incorporated by reference in section 101(j) of Public Law 98-473 (98 Stat. 1963)) be equal to zero;

(B) fiscal year 1987, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year; and

5 USC 5332.

(C) fiscal year 1988, shall not exceed an increase equal to the overall percentage of the adjustment (under section 5305 of title 5, United States Code) in the rates of pay under the General Schedule for such fiscal year.

Effective date.

(2) Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1987 or 1988 (determined without regard to this paragraph) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase is so scheduled to take effect.

5 USC 5343 note.

100 STAT. 333

5 USC 5343 note.

(3) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of paragraphs (1) and (2) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before October 1, 1985.

(4) Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) The Office may make exceptions from the limitations imposed by paragraph (1) if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

SEC. 15202. PROVISIONS RELATING TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) AMOUNTS TO BE REFUNDED FROM CARRIERS' SPECIAL RESERVES.—(1) The Office of Personnel Management—

5 USC 8909 note.

(A) shall determine the minimum level of financial reserves necessary to be held by a carrier for each health benefits plan under chapter 89 of such title for the purpose of ensuring the stable and efficient operation of such plan; and

(B) shall require the carrier to refund to the Employees Health Benefits Fund (described in section 8909(a) of title 5, United States Code) any such reserves in excess of such minimum level in such amounts and at such times during fiscal years 1986 and 1987 as the Office determines appropriate.

(2) In carrying out its responsibilities under this subsection, the Office shall ensure that the aggregate amount to be refunded to the Employees Health Benefits Fund under this subsection—

(A) during fiscal year 1986 shall be not less than $800,000,000; and

(B) during fiscal year 1987 shall be not less than $300,000,000.

(3) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States as a result of a refund made under this subsection.

(4)(A) Subject to subparagraphs (B) and (C), any amounts refunded to the Employees Health Benefits Fund under this subsection may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants, as defined by section 8901(3) of title 5, United States Code, (including the Government contribution for former employees of the United States Postal Service) enrolled in health benefits plans under such chapter.

5 USC 8901 *et seq.*

(B) This paragraph applies to a refund to the extent that such refund represents amounts attributable to Government contributions which were made under section 8906(b) of title 5, United States Code, (including contributions made by the United States Postal Service) as determined under regulations which the Office of Personnel Management shall prescribe.

(C) Any part of the amount in the Employees Health Benefits Fund as a result of a refund made under this subsection may be transferred—

District of Columbia.

100 STAT. 334

(i) to the government of the District of Columbia, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the government of the District of Columbia to subscription charges under this chapter (as determined by the Office of Personnel Management); and

(ii) to the United States Postal Service, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the United States Postal Service to subscription charges under this chapter (as determined by the Office).

(5) The provisions of this subsection shall apply notwithstanding any provision of the Federal Employees Benefits Improvement Act of 1985.

(b) GOVERNMENT CONTRIBUTIONS FOR RETIRED FORMER EMPLOYEES OF THE UNITED STATES POSTAL SERVICE.—Section 8906(g) of title 5, United States Code, is amended—

(1) by striking out "(g) The" and inserting in lieu thereof "(g)(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following:

"(2) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after October 1, 1986, shall be paid by the United States Postal Service.".

SEC. 15203. COMPUTATION OF HOURLY RATES OF PAY.

(a) METHOD OF COMPUTATION.—Section 5504(b) of title 5, United States Code, is amended—

(1) by striking out the first sentence;

(2) in the second sentence, by striking out "When" and inserting in lieu thereof "When, in the case of an employee,";

(3) in paragraph (1), by striking out "2,080" and inserting in lieu thereof "2,087"; and

(4) in the last sentence, by striking out "title." and inserting in lieu thereof "title other than an employee or individual excluded by section 5541(2)(xvi) of this title.". 5 USC 5541.

5 USC 5504 note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to pay periods commencing on or after March 1, 1986.

SEC. 15204. COMPUTATION OF RETIREMENT ANNUITY FOR PART-TIME EMPLOYMENT.

(a) IN GENERAL.—(1) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(o)(1) In computing an annuity under this subchapter for an employee whose service includes service that was performed on a part-time basis—

"(A) the average pay of the employee, to the extent that it includes pay for service performed in any position on a part-time basis, shall be determined by using the annual rate of basic pay that would be payable for full-time service in the position; and

"(B) the benefit so computed shall then be multiplied by a fraction equal to the ratio which the employee's actual service, as determined by prorating an employee's total service to reflect the service that was performed on a part-time basis, bears to the total service that would be creditable for the employee if all of the service had been performed on a full-time basis.

100 STAT. 335

"(2) For the purpose of this subsection, employment on a part-time basis shall not be considered to include employment on a temporary or intermittent basis.".

5 USC 8341. (2) Section 8341 of such title is amended—

(A) by striking out "and (n)" in subsection (b)(1) and inserting in lieu thereof ", (n), and (o)"; and

(B) by striking out "and (n)" in subsection (d) and inserting in lieu thereof "(n), and (o)".

(b) Section 4109(b) of title 38, United States Code, is repealed.

5 USC 8339 note. (c) The amendments made by this section shall be effective with respect to service performed on or after the date of the enactment of this Act.

SEC. 15205. EFFECT OF WAGE AREA SURVEY REGARDING CERTAIN FEDERAL EMPLOYEES IN TUCSON, ARIZONA.

(a) IN GENERAL.—Notwithstanding any other provision of law limiting the amounts payable to prevailing wage rate employees during the fiscal year 1986, wage schedules or rates applicable to the Tucson, Arizona, wage area shall not be reduced as a result of a wage survey conducted during fiscal year 1985.

(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1985.

Subtitle C—Federal Motor Vehicle Expenditure Control

40 USC 901.

SEC. 15301. MONITORING SYSTEM.

The head of each executive agency, including the Department of Defense, shall designate one office, officer, or employee of the agency to establish and operate a central monitoring system for, and provide oversight of, the motor vehicle operations of the agency, related activities, and related reporting requirements.

SEC. 15302. DATA COLLECTION.

40 USC 902.

(a) COST IDENTIFICATION AND ANALYSIS.—The head of each executive agency, including the Department of Defense, shall develop a system to identify, collect, and analyze data with respect to all costs, including obligations and outlays, incurred by the agency in the operation, maintenance, acquisition, and disposition of motor vehicles, including Government-owned vehicles, leased vehicles, and privately owned vehicles used for official purposes.

(b) REQUIREMENTS FOR DATA SYSTEMS.—The Administrator, in cooperation with the Comptroller General and the Director, shall promulgate requirements governing the establishment and operation by executive agencies of the systems required by subsection (a), including requirements with respect to data concerning the costs and uses of motor vehicles and with respect to the uniform collection and submission of such data. Requirements promulgated under this section shall be in conformance with accounting principles and standards issued by the Comptroller General. Each executive agency, including the Department of Defense, shall comply with such requirements.

SEC. 15303. AGENCY STATEMENTS WITH RESPECT TO MOTOR VEHICLE USE.

40 USC 903.

(a) CONTENTS OF STATEMENT.—The head of each executive agency, including the Department of Defense, shall include with the appropriation request of such agency submitted under section 1108 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, a statement—

(1) specifying—

(A) the total motor vehicle acquisition, maintenance, leasing, operation, and disposal costs, including obligations and outlays, incurred by such agency in the most recently completed fiscal year; and

(B) an estimate of such costs for the fiscal year in which such request is submitted and for the succeeding fiscal year; and

(2) justifying why the existing and any new motor vehicle acquisition, maintenance, leasing, operation, and disposal requirements of the agency cannot be met through the Interagency Fleet Management System operated by the Administrator, a qualified private fleet management firm, or any other method which is less costly to the Government.

(b) COMPLIANCE WITH REQUIREMENTS.—The head of each executive agency shall comply with the requirements promulgated under section 15302(b) in preparing each statement required under subsection (a).

SEC. 15304. PRESIDENTIAL REPORT.

President of U.S.
40 USC 904.

(a) SUMMARY AND ANALYSIS OF AGENCY STATEMENTS.—The President shall include with the budget transmitted pursuant to section 1105 of title 31, United States Code, for fiscal year 1988 and each succeeding fiscal year, or in a separate written report to the Congress for each such fiscal year, a summary and analysis of the statements most recently submitted by the heads of executive agencies pursuant to section 15303(a). Each such summary and analysis shall include a review, for the fiscal year preceding the fiscal year in which the budget is submitted, the current fiscal year, and the fiscal year for which the budget is submitted, of the cost savings that have been achieved, that are estimated will be achieved, and that could be achieved, in the acquisition, maintenance, leasing, operation, and disposal of motor vehicles by executive agencies through—

(1) the use of a qualified private fleet management firm or another private contractor;

(2) increased reliance by executive agencies on the Interagency Fleet Management System operated by the Administrator; or

(3) other existing motor vehicle management systems.

(b) Applicability to Fiscal Year 1986.—The summary and analysis submitted under subsection (a) during fiscal year 1987 is not required to include a review, under the second sentence of such subsection, of the cost savings achieved for fiscal year 1986.

40 USC 905.

SEC. 15305. STUDY REQUIRED.

(a) Study of Costs, Benefits, and Feasibility.—(1) The head of each executive agency, including the Department of Defense, shall conduct a comprehensive and detailed study of the costs, benefits, and feasibility of—

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(A) relying on the Interagency Management Fleet System operated by the Administrator;

(B) entering into a contract with a qualified fleet management firm or another private contractor; or

(C) using any other means less costly to the Government, to meet its motor vehicle operation, maintenance, leasing, acquisition, and disposal requirements.

(2) Each study conducted under paragraph (1) shall compare the costs, benefits, and feasibility of the alternatives described in subparagraphs (A), (B), and (C) of such paragraph to the costs and benefits of the agency's current motor vehicle operations and, in the case of the alternatives described in subparagraphs (B) and (C) of such paragraph, to the costs, benefits, and feasibility of the use of the Interagency Fleet Management System operated by the Administrator.

Report.

(b) Submission to Director and Comptroller General.—Within 6 months after the date of enactment of this Act, the head of each executive agency shall submit a report concerning the study required under subsection (a) to the Administrator.

40 USC 906.

SEC. 15306. INTERAGENCY CONSOLIDATION.

Motor vehicles.

(a) Identification of Opportunities for Consolidation.—The Administrator shall review and identify interagency opportunities for the consolidation of motor vehicles, related equipment, and facilities, and of functions relating to the administration and management of such vehicles, equipment, and facilities, in order to reduce the size and cost of the Federal Government's motor vehicle fleet.

(b) Report and Action on Findings.—Within one year after the date of enactment of this Act, the Administrator shall—

(1) submit a report to the Congress specifying the findings and recommendations of the Administrator from the review conducted under subsection (a); and

(2) take such action as the Administrator considers appropriate based on such findings and recommendations and in accordance with section 211 of the Federal Property and Administrative Services Act.

40 USC 491.

40 USC 907.

SEC. 15307. REDUCTION OF STORAGE AND DISPOSAL COSTS.

The Administrator shall take such actions as may be necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through a program of vehicle reconditioning prior to sale.

40 USC 908.

SEC. 15308. SAVINGS.

(a) Actions by President Required.—The President shall establish, for each executive agency, including the Department of Defense, goals to reduce outlays for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles in order to reduce, by fiscal year 1988, the total amount of outlays by all executive agencies for such operation, maintenance, leasing, acquisition, and disposal to an amount which is $150,000,000 less than the amount for such operation, maintenance, leasing, acquisition, and disposal requested by the President in the budget submitted under section 1105 of title 31, United States Code, for fiscal year 1986.

(b) Monitoring of Compliance and Compliance Report.—The Director shall monitor compliance by executive agencies with the goals established by the President under subsection (a) and shall include, in each summary and analysis required under section 15304, a statement specifying the reductions in expenditures by executive agencies, including the Department of Defense, achieved under such goals.

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SEC. 15309. COMPLIANCE.

40 USC 909.

Motor vehicles.

(a) Administrator of General Services.—The Administrator shall comply with and be subject to the provisions of this part with regard to all motor vehicles that are used within the General Services Administration for official purposes.

(b) Managers of Other Motor Pools.—The provisions of this part with respect to motor vehicles from the Interagency Fleet Management System shall be complied with by the executive agencies to which such motor vehicles are assigned.

SEC. 15310. APPLICABILITY.

40 USC 910.

(a) Priority in Reducing Headquarters Use.—The heads of executive agencies shall give first priority to meeting the goals established by the President under section 15308(a) by reducing the costs of administrative motor vehicles used at the headquarters and regional headquarters of executive agencies, rather than by reducing the costs of motor vehicles used by line agency personnel working in agency field operations or activities.

President of U.S.

(b) Regulations, Standards, and Definitions.—The President shall require the Administrator, in cooperation with the Director, to promulgate appropriate regulations, standards, and definitions to assure that executive agencies meet the goals established under section 15308(a) in the manner prescribed by subsection (a).

SEC. 15311. COOPERATION.

40 USC 911.

The Director and the Administrator shall closely cooperate in the implementation of the provisions of this part.

SEC. 15312. REPORTS.

40 USC 912.

The Comptroller General shall evaluate the extent to which the Director, the Administrator, and executive agencies have complied with this part. By January 31, 1988, the Comptroller General shall submit a report to the Congress describing the results of such evaluation.

SEC. 15313. DEFINITIONS.

40 USC 913.

For purposes of this title—

(1) the term "executive agency" means an Executive agency (as such term is defined in section 105 of title 5, United States Code), which operates at least three hundred motor vehicles, except that such term does not include the Tennessee Valley Authority;

(2) the term "Director" means the Director of the Office of Management and Budget;

(3) the term "Administrator" means the Administrator of General Services;

(4) the term "Comptroller General" means the Comptroller General of the United States; and

(5) the term "motor vehicle" means any vehicle self-propelled or drawn by mechanical power, except that such term does not include any vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose vehicle exempted from the requirements of this part by the Administrator.

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Student Financial Assistance Amendments of 1985.
20 USC 1001 note.

TITLE XVI—HIGHER EDUCATION PROGRAMS

SEC. 16001. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Student Financial Assistance Amendments of 1985".

(b) REFERENCE.—References in this title to "the Act" are to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

Subtitle A—Savings in Student Loan Program Operations

SEC. 16011. RECOVERY OF OUTSTANDING ADVANCES TO GUARANTY AGENCIES.

20 USC 1072.

Section 422 of the Act is amended by adding at the end thereof the following new subsection:

State and local governments.
20 USC 1081.

"(d)(1) Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this paragraph and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988.

"(2) In determining the amount of advances which shall be repaid by a State or nonprofit private institution or organization under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity, as determined by the Comptroller General, of the reserve and insurance funds of the State or nonprofit private institution or organization assisted by such advances;

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

"(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement mandated by the statutes of such State.".

SEC. 16012. DISBURSEMENT OF STUDENT LOANS TO INSTITUTIONS REQUIRED.

20 USC 1077.

(a) FISL LOANS REQUIREMENT.—Section 427(a)(2) of the Act is amended—

(1) by striking out clause (ii) of subparagraph (B) and by redesignating clauses (iii) and (iv) of subparagraph (B) as clauses (ii) and (iii), respectively;

(2) by striking out "or the fifteen-year period" in the matter following clause (viii) of subparagraph (C); and

(3) by amending subparagraph (I) to read as follows:

"(I) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and".

20 USC 1078.

(b) GSL LOANS REQUIREMENT.—Section 428(b)(1)(O) of the Act is amended to read as follows:

"(O) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subparagraph shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;".

(c) Conforming Amendment.—Section 433A(a) of the Act is amended by striking out "to a borrower" in the first sentence. 20 USC 1083a.

SEC. 16013. MULTIPLE DISBURSEMENTS OF STUDENT LOANS REQUIRED.

(a) Repeal of Incentives to Lenders to Make Multiple Disbursements.—Section 428(a) of the Act is amended by striking out paragraph (8). 20 USC 1078.

(b) Multiple Disbursement Required in FISL Program.—Section 427(a) of the Act is amended— 20 USC 1077.

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) in the case of a loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more, the proceeds of the loan will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period.

For purposes of paragraph (3), all loans issued for the same period of enrollment shall be considered as a single loan.".

(c) Multiple Disbursements Required in GSL Program.—Section 428(b)(1) of such Act is amended—

(1) by redesignating subparagraph (P) as subparagraph (Q); and

(2) by inserting after subparagraph (O) the following new subparagraph:

"(P) provides that the proceeds of any loan made for any period of enrollment of more than six months, one semester, two quarters, or 600 clock hours and for an amount of $1,000 or more—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the interval between the first and second installment being not less than one-third of such period, or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for purposes of this subparagraph; and".

(d) Origination Fee To Be Deducted Proportionately From Each Installment.—Section 438(c)(2) of the Act is amended by striking out "which may be deducted from the proceeds of the loan prior to payment to the borrower" and inserting in lieu thereof "which shall be deducted proportionately from each installment payment of the proceeds of the loan to the borrower". 20 USC 1087-1. 100 STAT. 341

(e) Conforming Amendments.—(1) Section 425(a)(1) of the Act is amended— 20 USC 1075.

(A) by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B); and

(B) by striking out the last sentence.

(2) Section 428(a)(3)(A) of the Act is amended— 20 USC 1078.

(A) by striking out "Except as provided in paragraph (8) and subject" and inserting in lieu thereof "Subject"; and

(B) by striking out "but, except as provided in paragraph (8) of this subsection, such portion" and inserting in lieu thereof "but such portion".

(3) Section 428(b)(1)(A) of such Act is amended—

(A) by inserting "and" at the end of division (i);

(B) by striking out division (ii) and by redesignating division (iii) as division (ii); and

(C) in the matter following such division, by striking out "annual limit," and all that follows and inserting in lieu thereof "annual limit;".

SEC. 16014. PRECLAIM COLLECTION ACTIVITIES.

20 USC 1078. (a) DELAY REQUIRED BEFORE SUBMISSION OF CLAIMS BY GUARANTY AGENCIES.—(1) Section 428(c)(1)(A) of the Act is amended by adding at the end thereof the following new sentence: "In no case shall a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to subsection (b) file a claim for such reimbursement with respect to such losses prior to 270 days after the loan becomes delinquent with respect to any loan installment.".

20 USC 1080. (2) Section 430(e)(2) of the Act is amended—

(A) by striking out "one hundred and twenty days" and inserting in lieu thereof "180 days"; and

(B) by striking out "one hundred and eighty days" and inserting in lieu thereof "240 days".

(b) SUPPLEMENTAL PRECLAIMS ASSISTANCE.—(1) Section 428(c)(6)(A) of the Act is amended—

(A) by inserting after "assistance for default prevention," the following: "the administrative costs of supplemental preclaim assistance for default prevention,"; and

(B) by striking out "as such terms are defined in subparagraph (B)" and inserting in lieu thereof "as such terms are defined in subparagraph (B) or (C)".

(2) Section 428(c)(6) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) For purposes of this paragraph, 'administrative costs of supplemental preclaim assistance for default prevention' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under sections 428(c)(2)(A) and 428(f)(2), and which has been in delinquent status for at least 120 days; and

100 STAT. 342

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed by the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required to provide pursuant to section 428(c)(2)(A) and section 428(f)(2) of this Act. 20 USC 1078.

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan; or

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan.

"(iv) The costs associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each delinquent loan subject to the supplemental preclaim assistance authorized by this subparagraph or $100, whichever is less.".

20 USC 1078 note. (3) The amendments made by this subsection shall be effective in accordance with section 16041(a) of this title without regard to whether such amendments are reflected in the regulations prescribed by the Secretary of Education.

SEC. 16015. PROMPT PAYMENT OF SUPPLEMENTAL GUARANTY ADMINISTRATIVE COST AGREEMENT.

(a) PURPOSE.—It is the purpose of the amendments made by this section to assure the prompt payment of the amount due under the supplemental guaranty administrative cost agreement made under section 428(f)(2) in order to encourage improved collection of student loans and preclaims assistance to prevent default on student loans.

Loans. 20 USC 1078 note.

(b) PROMPT PAYMENT REQUIRED.—(1) Section 428(f)(1) of the Act is amended—

20 USC 1078.

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

(2) Section 428(f)(2) of the Act is amended—

(A) by striking out "is authorized to" and inserting in lieu thereof "shall";

(B) by striking out "shall not exceed" and inserting in lieu thereof "shall be equal to"; and

(C) by striking out the third and fourth sentences of such section.

SEC. 16016. GUARANTY AGENCY; LENDER OF LAST RESORT.

Section 428 of the Act is amended by adding at the end thereof the following new subsection:

20 USC 1078.

"(j) In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students who are eligible to have interest benefits paid on their behalf (under subsection (a) of this section) but who are otherwise unable to obtain loans under this part. Loans made under this subsection shall neither exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.".

State and local governments. 20 USC 1085.

SEC. 16017. STUDENT LOAN CONSOLIDATION.

(a) LOAN CONSOLIDATION AUTHORIZED.—Part B of title IV of the Act is amended by inserting after section 428B the following new section:

"CONSOLIDATION LOANS

"SEC. 428C. (a)(1) For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to student loans made, insured, or guaranteed under this part or made under part E of this title, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

20 USC 1078-3.

20 USC 1088.

"(A) the Student Loan Marketing Association;

"(B) agencies described in subparagraphs (D) and (F) of section 435(g)(1); and

20 USC 1085.

"(C) eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

"(2) Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such guaranty agency.

20 USC 1079.

20 USC 1078.

"(3) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(A) has an outstanding indebtedness, at the time of application for a consolidation loan, to one or more lenders or programs under this title of not less than $5,000;

"(B) has not during the previous 4 months carried at an eligible institution at least one-half the normal full-time academic workload;

"(C) if in repayment status, is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

20 USC 1078-2. "(D) is not a parent borrower under section 428B(a)(1).

"(4) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. For the purpose of computing the outstanding indebtedness of such an individual, only loans received after such date shall be taken into account.

"(b)(1) Any lender described in clause (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A)(i) that, in the case of lenders described in subsection (a)(1)(C), the lender will make a consolidation loan to any eligible borrower on request of that borrower, if the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, and will make such loans to other eligible borrowers only to the extent permitted by the Secretary in an agreement under subsection (d);

"(ii) that, in the case of lenders described in subsection (a)(1)(B), the lender will make, subject to the availability of funds allocated for such purpose, a consolidation loan to any eligible borrower—

"(I) who is, or was at the time of receiving a loan which is selected for consolidation, a resident of the State of such lender; or

"(II) who received loans under this title while attending an institution of higher education in the State of such lender,

except that the lender may elect to limit further the availability of its loans under this section to those borrowers for whom the lender is the holder of a loan selected for consolidation; or

"(iii) that, in the case of the Student Loan Marketing Association, the lender will make a consolidation loan to any eligible borrower on request of that borrower;

"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the maximum principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3)(A)(i), and (ii) which is equal to the sum of the unpaid principal, accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) that, in the case of any lender, such lender will not make consolidation loans under this part from the proceeds of bonds or other obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, issued subsequent to the enactment date of the Student Financial Assistance Amendments of 1985; and

26 USC 1 *et seq.*

Ante, p. 339.

"(F) such other terms and conditions as the Secretary or guaranty agency (whichever is party to the agreement) may specifically require of the lender to carry out this section.

"(2) The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. A guaranty agency may issue a certificate of comprehensive insurance coverage to a lender if the lender has entered into an agreement under paragraph (1) of this subsection. The Secretary shall not issue such a certificate under this paragraph to a lender described in clause (B) or (C) of subsection (a)(1) if the Secretary determines that such lender has reasonable access in its State, for the purpose of obtaining such a certificate, to a guaranty agency. In either case, such certificate shall, at a minimum, provide—

20 USC 1079.

100 STAT. 345

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured against loss of principal and interest by the issuer of such certificate;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated (i) that the loan is a legal, valid, and binding obligation of the borrower; (ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and (iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of such certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(F) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(3) A consolidation loan made pursuant to this section shall be insurable under a certificate issued pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section and contains notice of the possibility of a revised repayment schedule under paragraph (2) of such subsection;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower is pursuing a full-time course of study at an eligible institution, is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

Fellowships.
Disabled persons.

"(ii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition;

"(iii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is

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unable to secure employment by reason of the care required by a spouse who is so disabled; or

"(iv) which is a single period, not in excess of 12 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

that any such period shall not be included in determining the repayment period provided pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

20 USC 1080.

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

20 USC 1078-2.
20 USC 1077a.
20 USC 1087-1.

"(c)(1) Consolidation loans made under this section shall bear interest at the rate of 10 per centum per annum on the unpaid principal balance of the loan, except that, if the consolidation loan is used for the purpose of discharging liability on a loan made pursuant to section 428B, the consolidation loan shall bear interest at a rate per annum on such unpaid balance which is equal to the highest applicable interest rate under section 427A on any loan which is selected for consolidation by the borrower. For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(2) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan, with the agreement of the borrower, may establish such repayment terms as will promote the objectives of this section, including the establishment of graduated and income sensitive repayment schedules. In each case a consolidation loan shall be repaid as follows:

"(A) in the case of a consolidation loan the original amount of which is less than $7,500, such loan shall be repaid in not more than 10 years;

"(B) in the case of a consolidation loan the original amount of which equals or exceeds $7,500 but is less than $11,000, such loan shall be repaid in not more than 13 years; or

"(C) in the case of a consolidation loan the original amount of which equals or exceeds $11,000, such loan shall be repaid in not more than 15 years.

"(3) Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

Prohibition.

"(4) No origination fee or insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the issuer of the certificate of insurance with respect to any such loan.

State and local government.

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"(d)(1) If, within 18 months after the effective date of this section, an eligible lender described in subsection (a)(1)(B) for a State has not entered into an agreement with the Secretary or a guaranty agency for purposes of making consolidation loans under this section, the Secretary may, after a hearing and upon a determination of need therefor, enter into an agreement for the purposes of making consolidation loans to eligible borrowers in such State with an eligible lender described in clause (B) or (C) of subsection (a)(1) from another State.

State and local government.

"(2) Notice of the hearing required by paragraph (1) of this subsection shall be sent to the Governor of the affected State and the eligible lenders described in subsection (a)(1)(B) for that State. At any such hearing representatives of such Governor and lenders may present evidence and testimony and examine witnesses, and full consideration shall be given to the views of such Governor and lenders with respect to the interests of the eligible borrowers in that State and with respect to the impact on programs of such lenders of allowing a lender described in clause (B) or (C) of subsection (a)(1) from another State to make consolidation loans pursuant to an agreement under this subsection in such State.

"(3) An agreement under this subsection may contain such terms and conditions as the Secretary may specifically require of the lender to carry out this section.

State and local government.

"(4) The requirements of paragraphs (1) and (2) of this subsection shall not apply if, in any State, an eligible lender described in subsection (a)(1)(B) from another State is functioning as a secondary market described in subparagraph (D) or (F) of section 435(g)(1) prior to the date of enactment of the Student Financial Assistance Amendments of 1985 and such lender agrees to make consolidation loans to eligible borrowers in such State.

20 USC 1085.

Ante, p. 339.

Termination.

"(e) The authority to make loans under this section expires at the close of September 30, 1991. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section shall not be considered to be new loans made to students for purposes of section 424(a).".

20 USC 1074.

20 USC 1077.

(b) Conforming Amendments.—(1) Section 427(a) of the Act is amended by striking out "A loan" and inserting in lieu thereof "Except as provided in section 428C, a loan".

Ante, p. 343.

(2) Section 435(g)(1) of the Act is amended—

(A) by striking out "section 439 (o) and (q)" in subparagraph (G) and inserting in lieu thereof "sections 428C and 439(q)"; and

(B) by striking out "section 428(j)" in subparagraph (H) and inserting in lieu thereof "sections 428(h) and 428C".

20 USC 1087-1.

(3) Section 438 of the Act is amended—

(A) in subsection (b)(5)(A)(ii), by inserting ", 428C," after "428B"; and

(B) in subsection (c)(2), by striking out "section 428B and section 439(o)" and inserting in lieu thereof "sections 428B and 428C".

20 USC 1078-2.

20 USC 1087-2.

(4) Section 439(d)(1)(C) of the Act is amended by striking out "428(A), and except with respect to loans under section 439(o)," and inserting in lieu thereof "428A, and except with respect to loans under section 428C,".

(c) Special Allowance.—(1) Section 438(b)(2)(A) of the Act is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(2) The first sentence of section 438(b)(2)(B)(i) of the Act is amended—

(A) by inserting "appropriate" before "quarterly rate" the second time it appears; and

(B) by inserting "or subparagraph (C)" before the period.

100 STAT. 348

20 USC 1087-1.

(3) Section 438(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

Ante, p. 343.

"(C) In the case of loans made in accordance with section 428C, the applicable per centum to be added under clause (iii) of subparagraph (A) shall be 3 per centum.".

20 USC 1078-3 note.

(d) Cost Evaluation Report.—The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.

SEC. 16018. EXTENSION OF PROGRAM.

(a) Extension of Authority.—Part B of title IV of the Act is amended—

20 USC 1074.

(1) in section 424(a)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992";

20 USC 1078.

(2) in section 428(a)(5)—

(A) by striking out "1986" and inserting in lieu thereof "1988";

(B) by striking out "1990" and inserting in lieu thereof "1992"; and

20 USC 1087-2.

(3) in section 439(l), by striking out "1988" and inserting in lieu thereof "1990".

20 USC 1078 note.

(b) Extension of Family Contribution Schedules.—Section 9 of the Student Financial Assistance Technical Amendments Act of 1982 is amended—

(1) in subsection (a), by striking out "and from July 1, 1986, through June 30, 1987," and inserting in lieu thereof "from July 1, 1986, through June 30, 1987, from July 1, 1987, through June 30, 1988, from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,"; and

(2) in subsection (c)—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the comma at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(C) by inserting after such paragraph the following new paragraphs:

"(5) April 1, 1987, for the period of instruction from July 1, 1987, through June 30, 1988;

"(6) April 1, 1988, for the period of instruction from July 1, 1988, through June 30, 1989; and

"(7) April 1, 1989, for the period of instruction from July 1, 1989, through June 30, 1990,".

SEC. 16019. SAVINGS FROM OPERATIONS OF THE STUDENT LOAN MARKETING ASSOCIATION.

Banks and banking.

(a) General Rule.—In order to contribute to carrying out the directions in the first concurrent resolution on the budget for the fiscal year 1986 (S. Con. Res. 32, 99th Congress, agreed to August 1, 1985) designed to reduce the Federal budget deficit, the Student Loan Marketing Association shall, during the fiscal year 1986, reduce the level of obligations owed to the Federal Financing Bank by $30,000,000 which, but for this section, will be paid to the Federal Financing Bank after October 1, 1986.

(b) Special Rule.—The amount described in subsection (a) may not be credited by the Student Loan Marketing Association to reduce the obligation to repay the Federal Financing Bank amounts which the Student Loan Marketing Association owes to the Federal Financing Bank in each of the fiscal years 1987 and 1988.

Contract.

(c) Savings Provision.—Nothing in this section shall be construed to authorize or require the Student Loan Marketing Association or the Federal Financing Bank to renegotiate the contract or other agreement under which the Student Loan Marketing Association agreed to pay amounts made available by the Federal Financing Bank to carry out section 439 of the Higher Education Act of 1965.

20 USC 1087-2.

SEC. 16020. DEFINITION.

20 USC 1085.

Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"(k) The term 'guaranty agency' means a State or nonprofit private institution or organization with which the Secretary has an agreement pursuant to section 428(b).".

20 USC 1078.

Subtitle B—Savings From Improved Student Loan Collection

SEC. 16021. AGREEMENT FOR AUDITS.

Section 428(b)(2) of the Act is amended— 20 USC 1078.

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) by inserting after such subparagraph the following:

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit.". 31 USC 7501 *et seq.*

SEC. 16022. RECOVERY COSTS.

Section 430(b) of the Act is amended— 20 USC 1080.

(1) by striking out in paragraph (1) "(including reasonable administrative costs)" and inserting in lieu thereof the following: "(including reasonable administrative and collection costs, to the extent set forth in regulations issued by the Secretary)";

(2) by striking out paragraph (2); and

(3) by striking out "(1)".

SEC. 16023. CREDIT BUREAU REPORTS.

Part B of title IV of the Act is amended by adding immediately after section 430 the following new section: 20 USC 1080a.

100 STAT. 350

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

"SEC. 430A. (a) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, and each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response to the Secretary (concerning loans covered by Federal loan insurance) or by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement) to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subsection (c), such agreements shall require that the Secretary or guaranty agency, eligible lender, or subsequent holder to disclose to such organizations with respect to any loan dispersed to a student— 20 USC 1078. 15 USC 1681 note.

"(1) the date of disbursement and the amount of the loan;

"(2) the date of default and information concerning collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and 20 USC 1080.

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

20 USC 1087.

"(b) Such agreements may also provide for the disclosure by such organizations to the Secretary, a guaranty agency, eligible lender, or subsequent holder upon receipt of a notice under subsection (a)(2) that such a loan is in default, or information which may assist the Secretary, guaranty agency, eligible lender, or subsequent holder in collecting the loan.

"(c) Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary, guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary, guaranty agency, eligible lender, or subsequent holder has determined that disclosure would carry out the purpose of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, guaranty agency, eligible lender, or subsequent holder with respect to such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 168i);

15 USC 1681i.
Prohibition.

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, guaranty agency, eligible lender, or subsequent holder (A) shall not disclose any such information until the Secretary, guaranty agency, eligible lender, or subsequent holder has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of the loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

100 STAT. 351

"(d) A guaranty agency, eligible lender, subsequent holder, or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5 of the United States Code (the Privacy Act of 1974).

"(e) The Secretary and each guaranty agency, eligible lender, and subsequent holder is authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

Report.

"(f) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary, or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's account on a loan insured or guaranteed under this part until the later of—

"(1) seven years from the date on which the agency paid a claim to the holder on insurance or the guaranty, or

"(2) seven years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to a consumer reporting agency.".

SEC. 16024. CIVIL PENALTIES.

20 USC 1082.

Section 432 of the Act is further amended by adding at the end thereof the following new subsection:

"(f)(1) Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $15,000 for each violation, failure, or misrepresentation.

"(2) No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that—

"(A) the violation, failure or substantial misrepresentation referred to in that paragraph resulted from—

"(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial misrepresentation is material.

"(3) A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) For the purposes of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged (unless the lender or agency has in the case of a final agency determination commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding).".

SEC. 16025. ASSIGNMENT AND REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 463(a)(5) of the Act is amended to read as follows: 20 USC 1087cc.

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) among other institutions in accordance with section 462; or

20 USC 1087bb.

"(B) if the institution is not one described in clause (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

20 USC 1087bb.

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 per centum of any sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;".

SEC. 16026. REPORTING BY CONSUMER REPORTING AGENCY ON NDSL LOANS.

20 USC 1087cc.

Section 463(c) of the Act is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until the later of—

"(A) seven years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) seven years from the date the Secretary first reported the account to a consumer reporting agency, if that account had not been previously reported by any other holder of the note.".

SEC. 16027. DEFAULT PENALTY ON NDSL LOANS.

20 USC 1087cc-1.

Section 463A(a)(7) of the Act is amended by inserting immediately before the semicolon at the end thereof the following: "and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan".

SEC. 16028. NDSL LOAN AGREEMENTS.

20 USC 1087dd.

(a) Charges for Late Payments.—Section 464(c)(1)(H) of the Act is amended to read as follows:

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this clause shall exceed 20 per centum of the amount of the monthly payment of the borrower; and".

(b) CONFORMING AMENDMENT.—Section 464(c)(4) of the Act is amended to read as follows:

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

100 STAT. 354

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.".

SEC. 16029. REFERRAL OF NDSL LOANS FOR COLLECTION.

Section 467 of the Act is amended to read as follows:

"COLLECTION OF DEFAULTED LOANS

"SEC. 467. (a) With respect to any loan— 20 USC 1087gg.

"(1) which was made under this part, and

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a), 20 USC 1087cc.

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

"(b) The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.".

Subtitle C—Savings Related to General Provisions

SEC. 16031. EXCLUSION OF LIQUIDATION PROCEEDS FROM FAMILY CONTRIBUTION COMPUTATIONS.

Section 482 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1089.

"(f) The Secretary shall, within 30 days after the date of enactment of this subsection, promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 1 of part A and part B of this title for any academic year beginning on or after July 1, 1985, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy.".

SEC. 16032. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR STUDENT LOANS.

(a) STUDENT IDENTIFICATION.—Section 484(a) of the Act is amended— 20 USC 1091.

(1) by striking out the word "such" each place it appears in paragraph (4) and inserting in lieu thereof "any"; and

(2) by striking out "(which need not be notarized)" in paragraph (5) and inserting in lieu thereof "(which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number)".

(b) ELIGIBILITY DETERMINATIONS.—Section 484 of the Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

100 STAT. 355

"(b) In order to be eligible to receive any loan under this title (other than a loan under section 428B or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a

20 USC 1078-2.
Ante, p. 343.

program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period; and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.".

20 USC 1078.

(c) CONFORMING AMENDMENT.—Section 428(a)(2)(C)(i) of the Act is amended by striking out "subparts 1 and 2 of part A," and inserting in lieu thereof "subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A,".

SEC. 16033. STATUTE OF LIMITATIONS.

Part F of title IV of the Act is amended by adding immediately after section 484 the following new section:

"STATUTE OF LIMITATIONS

20 USC 1091a.
Grants.
Claims.

"SEC. 484A. (a) Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

20 USC 1078.
20 USC 1071.

"(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower; and

20 USC 1087cc.
20 USC 1088.

"(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date six years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

100 STAT. 356

"(A) for payment of a refund due from a student on a grant made under this title until six years following the date on which the refund first became due;

20 USC 1078.

"(B) for collection of the amount due the Secretary from a borrower pursuant to section 428(c)(2)(D) of this title until six years following the date on which the loan is assigned to the Secretary under part B of this title; and

"(C) for collection of the amount due from a borrower on a loan made under this part until six years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

"(b) Notwithstanding any provision of State law to the contrary—

"(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

"(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.".

SEC. 16034. PROGRAM PARTICIPATION AGREEMENTS.

(a) USE OF INTEREST ON FUNDS RECEIVED.—Section 487(a)(1) of the Act is amended to read as follows: 20 USC 1094.

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purposes specified in, and in accordance with the provision of, that program.".

(b) AUDIT AND RECOVERY OF FUNDS.—Section 487(b)(1) of the Act is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every two years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organization, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;". 31 USC 7501 *et seq.*

Subtitle D—Effective Dates

SEC. 16041. EFFECTIVE DATES.

20 USC 1072 note.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) PROSPECTIVE PROVISIONS; LOANS.—(1) The amendments made by sections 16012, 16027, and 16028 shall apply to loans to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(2) The amendments made by section 16013 shall apply to loans made on or after July 1, 1986.

(c) RETROACTIVE PROVISIONS; LOANS.—(1) The amendment made by section 16015 shall apply to any fiscal year beginning after September 30, 1984.

(2) The amendments made by sections 16021 through 16026, 16029, and 16032(b) shall apply to all loans, including loans made before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(d) PROSPECTIVE PROVISION; ALL ASSISTANCE.—The amendment made by section 16032(a) shall apply to grants, loans, or work assistance to cover the cost of attendance for any period of enrollment beginning on or after January 1, 1986.

(e) RETROACTIVE PROVISION; GRANTS.—The amendment made by section 16033 shall apply to all grants, including grants awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

(f) RETROACTIVE PROVISIONS; ALL ASSISTANCE.—The amendment made by section 16034 shall apply to all grants, loans, or work assistance, including such assistance awarded before the enactment of this Act, and shall take effect 90 days after the enactment of this Act.

TITLE XVII—GRADUATE MEDICAL EDUCATION COUNCIL AND TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 17001. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART H—GRADUATE MEDICAL EDUCATION

"COUNCIL ON GRADUATE MEDICAL EDUCATION

42 USC 295i. "SEC. 799. (a) There is established the Council on Graduate Medical Education (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) prior to July 1, 1988, and every three years thereafter, provide advice and make recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to—

"(A) the supply and distribution of physicians in the United States;

"(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

"(C) issues relating to foreign medical school graduates;

"(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

100 STAT. 358

"(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathy, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

"(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and post-graduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

"(2) encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

"(b) The Council shall be composed of—

"(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

"(2) the Administrator of the Health Care Financing Administration;

"(3) the Chief Medical Director of the Veterans' Administration;

"(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations;

"(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathy and public and private teaching hospitals; and

"(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

"(c)(1) Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of one year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

"(2) The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) within 60 days after the date of enactment of this section.

"(d) The Council shall elect one of its members as Chairman of the Council.

"(e) Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

"(f) Any vacancy in the Council shall not affect its power to function.

"(g) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h)(1) In order to carry out the provisions of this section, the Council is authorized to—

"(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

"(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

"(2) The Council shall coordinate activities carried out under this section with the activities of the National Advisory Council on Health Professions Education under section 702 and with the activities of the Secretary under section 708. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 708 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

42 USC 292b.
42 USC 292h.

"(i) In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.

Reports.

"(j) The Council shall terminate on September 30, 1996."

Termination.

SEC. 17002. SPECIAL PAY PROVISIONS.

(a) SERVICE IN THE INDIAN HEALTH SERVICE.—(1) Section 208(a)(2)(B) of the Public Health Service Act (42 U.S.C. 210(a)(2)(B)) is amended by inserting "(other than an officer serving in the Indian Health Service)" after "Corps".

(2) The amendment made by paragraph (1) shall take effect as of October 7, 1985.

42 USC 210 note.

(b) EMPLOYEES AT THE GILLIS W. LONG HANSEN'S DISEASE CENTER.—Section 208(e) of the Public Health Service Act (42 U.S.C. 210(e)) is amended to read as follows:

"(e) Any civilian employee of the Service who is employed at the Gillis W. Long Hansen's Disease Center on the date of the enact-

Ante, p. 82.

ment of the Consolidated Omnibus Budget Reconciliation Act of 1985 shall be entitled to receive, in addition to any compensation to which the employee may otherwise be entitled and for so long as the employee remains employed at the Center, an amount equal to one-fourth of such compensation.".

SEC. 17003. USE OF FISCAL AGENTS BY PUBLIC HEALTH SERVICE.

Title XXI of the Public Health Service Act is amended by adding at the end the following new section:

"USE OF FISCAL AGENTS

Contracts.
42 USC 300aa-15.

"SEC. 2116. (a) The Secretary may enter into contracts with fiscal agents—

"(1)(A) to determine the amounts payable to persons who, on behalf of the Indian Health Service, furnish health services to eligible Indians,

"(B) to determine the amounts payable to persons who, on behalf of the Public Health Service, furnish health services to individuals pursuant to section 319 or 322,

42 USC 247d, 249.

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"(2) to receive, disburse, and account for funds in making payments described in paragraph (1),

"(3) to make such audits of records as may be necessary to assure that these payments are proper, and

"(4) to perform such additional functions as may be necessary to carry out the functions described in paragraphs (1) through (3).

"(b)(1) Contracts under subsection (a) may be entered into without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring competition.

Prohibition.

"(2) No such contract shall be entered into with an entity unless the Secretary finds that the entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as he finds pertinent.

"(c) A contract under subsection (a) may provide for advances of funds to enable entities to make payments under the contract.

42 USC 1395u.

"(d) Subsections (d) and (e) of section 1842 of the Social Security Act shall apply to contracts with entities under subsection (a) in the same manner as they apply to contracts with carriers under that section.

"(e) In this section, the term 'fiscal agent' means a carrier described in section 1842(f)(1) of the Social Security Act and includes, with respect to contracts under subsection (a)(1)(A), an Indian tribe or tribal organization acting under contract with the Secretary under the Indian Self-Determination Act (Public Law 93-638).".

25 USC 450 note.

SEC. 17004. TECHNICAL REVISIONS RELATING TO EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

Grants.
State and local government.

(1) by striking out "grant to not more than four States in any fiscal year" in the first sentence of subsection (a) and inserting in lieu thereof "not more than four grants in any fiscal year to States or accredited schools of medicine in States";

(2) by adding at the end of subsection (a) the following new sentence: "Only one grant under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.";

(3) by striking out "other States" in subsection (b) and inserting in lieu thereof "States in which grants under such subsection have not been made";

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting after subsection (b) the following new subsection:

"(c) For purposes of this section—

"(1) the term 'school of medicine' has the same meaning as in section 701(4); and 42 USC 292a.

"(2) the term 'accredited' has the same meaning as in section 701(5).".

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TITLE XVIII—SMALL BUSINESS PROGRAMS

SEC. 18001. SMALL BUSINESS ADMINISTRATION PROGRAM AND AUTHORIZATION LEVELS.

Section 20 of the Small Business Act is amended by adding the following new subsections: 15 USC 631 note.

"(u) The following program levels are authorized for fiscal year 1986—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $60,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72; 15 USC 636. Loans. Veterans. 38 USC 101 note.

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $2,971,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $60,000,000 in loans as provided in paragraph (11), $15,000,000 in loans as provided in paragraph (12), $400,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503; 15 USC 697.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $250,000,000 in guarantees of debentures; 15 USC 681.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,050,000,000; and 15 USC 694a.

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000. 15 USC 694-1, 694-2.

"(v) There are authorized to be appropriated to the Administration for fiscal year 1986, $515,000,000. Of such sum, $295,000,000 shall be available for the purpose of carrying out the programs referred to in paragraphs (1) through (3) of subsection (u); $12,000,000 shall be available for the purposes of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; and $208,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses. Loans. 15 USC 694c. 15 USC 636.

"(w) The following program levels are authorized for fiscal year 1987—

Loans.
Veterans.
100 STAT. 362
38 USC 101 note.

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $70,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $35,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

15 USC 697.

"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,134,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $63,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

15 USC 681.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $261,000,000 in guarantees of debentures;

15 USC 694a.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,096,000,000; and

15 USC 694-1, 694-2.

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000.

15 USC 694c.
15 USC 636.

"(x) There are authorized to be appropriated to the Administration for fiscal year 1987, $605,000,000. Of such sum, $381,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (w); $14,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $210,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

Loans.
Veterans.

"(y) The following program levels are authorized for fiscal year 1988—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $75,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $15,000,000 in loans as provided in paragraph (10), $40,000,000 in loans as provided in paragraph (11), and $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of title III of Public Law 97-72;

15 USC 697.
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"(2) for the programs authorized by section 7(a) of this Act and section 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,245,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $16,000,000 in loans as provided in paragraph (12), $450,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 503;

15 USC 697.

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures; 15 USC 681.

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,142,000,000; and 15 USC 694a.

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $75,000,000. 15 USC 694-1, 694-2.

"(z) There are authorized to be appropriated to the Administration for fiscal year 1988, $634,000,000. Of such sum, $409,000,000 shall be available to carry out the programs referred to in paragraphs (1) through (3) of subsection (y); $13,000,000 shall be available to carry out the provisions of section 412 of the Small Business Investment Act of 1958; and $212,000,000 shall be available for salaries and expenses of the Administration. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.". 15 USC 694c. 15 USC 636.

SEC. 18002. TECHNICAL AND CLERICAL AMENDMENTS.

Section 20 of the Small Business Act is amended— 15 USC 631 note.

(1) in subsection (t), as added by section 302 of Public Law 98-270—

(A) by inserting "(1)" after "(t)";

(B) by striking out "each of fiscal years 1985 and 1986," and inserting in lieu thereof "fiscal year 1985"; and

(C) by striking out "for each of such years"; and

(2) in subsection (t), as added by section 3 of Public Law 98-395—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(B) by redesignating such subsection (t) as paragraph (2).

SEC. 18003. DETERMINATION OF LABOR SURPLUS AREAS.

(a) IN GENERAL.—Section 15 of the Small Business Act is amended by adding at the end thereof the following new subsection: 15 USC 644.

"(n) For purposes of this section, the determination of labor surplus areas shall be made on the basis of the criteria in effect at the time of the determination, except that any minimum population criteria shall not exceed twenty-five thousand. Such determination, as modified by the preceding sentence, shall be made by the Secretary of Labor.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the ninetieth day after the date of the enactment of this Act. 15 USC 644 note.

SEC. 18004. FEDERAL FINANCING BANK PURCHASE OF GUARANTEED OBLIGATIONS.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"GUARANTEED OBLIGATIONS NOT ELIGIBLE FOR PURCHASE BY FEDERAL FINANCING BANK

"SEC. 320. Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire after September 30, 1985— 15 USC 687k.

"(1) any obligation the payment of principal or interest on which has at any time been guaranteed in whole or in part under this title,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding at the end thereof the following new item:

"Sec. 320. Guaranteed obligations not eligible for purchase by Federal Financing Bank.".

SEC. 18005. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES

15 USC 687*l*. "SEC. 321. (a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies and guaranteed by the Administration under this Act: *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. 100 STAT. 365 During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

Prohibition. "(d) The Administration shall not collect any fee for any guarantee under this section: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

Prohibition. "(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

Contract.

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

15 USC 687*l* note.

(b) Rules and Regulations; Consultation.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 321(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in sections 321(f)(2) and 321(f)(3) of such Act.

Ante, p. 364.

15 USC 697b note.

(2) Notwithstanding any law, rule, or regulation, within 60 days after the date of the enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to

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implement sections 504 and 505 of the Small Business Investment Act.

Infra; post, p. 367.

(c) Clerical Amendment.—The table of sections for title III of such Act is amended by adding at the end thereof the following new item:

"Sec. 321. Issuance and guarantee of trust certificates.".

SEC. 18006. TERMINATION OF AUTHORITY TO MAKE CERTAIN DISASTER ASSISTANCE LOANS.

15 USC 636.

(a) In General.—The Small Business Act is amended—

(1) in section (7)(b)—

(A) by striking out "The" after "(b)" and inserting in lieu thereof "Except as to agricultural enterprises as defined in section 18(b)(1) of this Act, the,";

Agriculture and agricultural commodities.

(B) by striking out the semicolon at the end of paragraph (2) and inserting in lieu thereof a period; and

(C) by striking out paragraphs (3) and (4);

(2) in section 7(c)(4) by striking out the last, undesignated paragraph; and

15 USC 647.

(3) in section 18(a) by striking out all that follows "Federal Government," through "Consolidated Farm and Rural Development Act".

15 USC 636 note.

(b) Pipeline Loans or Previous Disasters.—Notwithstanding the amendments made by this section, sections 18002 and 18016, or any other provision of law, the Small Business Administration shall continue to accept, process, and approve loan applications under paragraphs (1) through (4) of subsection 7(b) of the Small Business Act and shall obligate and disburse loan funds on account of disasters declared before October 1, 1985, even if any such application is filed after the date of the enactment of this Act.

SEC. 18007. GUARANTEE FEE.

15 USC 636.

Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new sentence:

> **"(16) The Administration shall collect a guarantee fee equal to two percent of the amount of the deferred participation share of any loan under this subsection other than a loan repayable in one year or less or a loan under paragraph (13). The fee shall be payable by the participating lending institution and may be charged to the borrower.".**

SEC. 18008. PILOT PROGRAM INVOLVING SALE OF DEVELOPMENT COMPANY DEBENTURES.

(a) PILOT PROGRAM.—Title V of the Small Business Investment Act of 1958 is amended by adding the following new section:

15 USC 697a.

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall conduct a pilot program involving the sale to investors, either publicly or by private placement, of debentures guaranteed pursuant to section 503 of the Small Business Investment Act of 1958 as follows—

15 USC 697.

"(1) of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000; and

"(2) of the program levels otherwise authorized by law for fiscal year 1987, an amount not to exceed $295,000,000.

Prohibition.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

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15 USC 697.

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of the Small Business Investment Act of 1958 and which is being sold pursuant to the provisions of the pilot program authorized in this section,

"(2) any obligation which is an interest in any obligation described in paragraph (1), or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

15 USC 697a note.

(b) REPORT ON PILOT PROGRAMS.—The Administration shall report to the President and the Congress on the conduct of the pilot program established under subsection (a) not later than 90 days after the date on which the last sale is made pursuant to such subsection in each fiscal year, and unless a report has been made not later than October 1 of 1986 and 1987, the Administration shall make an interim report by such dates.

(c) AUTHORITY FOR ISSUANCE OF TRUST CERTIFICATES.—Such title is further amended by adding at the end thereof the following new section:

15 USC 697b.

"SEC. 505. (a) The Administration is authorized to issue trust certificates representing ownership of all of a fractional part of debentures issued by State or local development companies and guaranteed by the Administration under this Act: *Provided*, That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, either voluntarily or in the event of default, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee.

During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures constituting the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect any fee for any guarantee under this section: *Provided*, That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

Prohibition.
State and local government.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures constituting the trust or pool against which the trust certificates are issued.

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"(f) The Administration shall—

"(1) provide for a central registration of all trust certificates sold pursuant to this section; such central registration shall include with respect to each sale, identification of each development company; the interest rate paid by the development company; commissions, fees, or discounts paid to brokers and dealers in trust certificates; identification of each purchaser of the trust certificate; the price paid by the purchaser for the trust certificate; the interest rate paid on the trust certificate; the fees of any agent for carrying out the functions described in paragraph (2); and such other information as the Administration deems appropriate;

Contract.
Insurance.

"(2) contract with an agent to carry out on behalf of the Administration the central registration functions of this section and the issuance of trust certificates to facilitate poolings; such agent shall provide a fidelity bond or insurance in such amounts as the Administration determines tc be necessary to fully protect the interests of the Government;

"(3) prior to any sale, require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument; and

"(4) have the authority to regulate brokers and dealers in trust certificates sold pursuant to this section.".

15 USC 697b note.

(d) Rules and Regulations.—(1) Notwithstanding any law, rule, or regulation, within 60 days after the date of enactment of this Act, the Small Business Administration shall develop and promulgate final rules and regulations to implement the central registration provisions provided for in section 505(f)(1) of the Small Business Investment Act, and shall contract with an agent for an initial period of not to exceed two years to carry out the functions provided for in section 505(f)(2) of such Act.

Ante, p. 367.

(2) Notwithstanding any law, rule or regulation, within 60 days after the date of enactment of this Act, the Small Business Administration also shall consult with representatives of appropriate Federal and State agencies and officials, the securities industry, financial institutions and lenders, and small business persons, and shall develop and promulgate final rules and regulations to implement sections 504 and 505 of the Small Business Investment Act.

Ante, p. 366.

SEC. 18009. MISREPRESENTATION AS A SMALL BUSINESS OR MINORITY CONCERN.

15 USC 645.

Section 16 of the Small Business Act is amended by adding to the end thereof the following new subsections:

Contract.
Penalties.

"(d) Whoever misrepresents the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

15 USC 638, 644. "(1) prime contract to be awarded pursuant to section 9 or 15;

15 USC 637. "(2) subcontract to be awarded pursuant to section 8(a);

"(3) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

15 USC 637. "(4) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility,

shall be punished by a fine of not more than $50,000 or by imprisonment for not more than five years, or both.

"(e) Any representation of the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals' in order to obtain any prime contract or subcontract enumerated in subsection (d) of this section shall be in writing.".

SEC. 18010. REPORT CONCERNING ALTERNATIVE SOURCES FOR LOAN GUARANTEES.

Not later than June 30, 1986, the Administrator of the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives an internal report concerning—

15 USC 636. (1) the options available to provide a guarantee on loans under section 7(a) of the Small Business Act from sources outside the Federal Government, together with such recommendations as the Administrator may have with respect to such options, including an evaluation of the feasibility of establishing a corporation owned by the Federal Government to make such guarantees; and

(2) the imposition, on each participating lender in the guaranteed loan program under section 7(a) of the Small Business Act, of an annual fee of between one-quarter of one percent and one percent of the value of the unpaid balance of any loan made under such program, particularly on the revenues that could be expected and whether such revenues could be used for a loss reserve fund or to defray the cost of administration of the program.

SEC. 18011. USER FEES.

(a) Report on User Fees.—Not later than September 30, 1986, the Small Business Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on user fees. The report shall specify for each fee which is currently being imposed or which is under consideration—

(1) the type of service provided by the Administration for which the fee is or may be charged;

(2) the amount of fee imposed or being considered;

(3) the formula for setting the fee; and

(4) the statutory or regulatory authority for the fee.

(b) Review of Appropriateness of Fees.—The Administration shall review all other services provided by the Administration for which no fee is currently being imposed and include in the report its findings and recommendations as to—

(1) whether or not a fee should be imposed for each service; and

(2) whether statutory authority is needed to impose the fee.

SEC. 18012. UTILIZATION OF PROGRAM AUTHORITY.

15 USC 631 note. Section 20(a) of the Small Business Act is amended—

(1) by inserting "(1)" after "Sec. 20. (a)"; and

(2) by adding at the end thereof the following:

Loans. "(2) Notwithstanding any other provision of law, the Administration shall enter into commitments for direct loans and to

guarantee loans, debentures, payment of rentals, or other amounts due under qualified contracts and other types of financial assistance and enter into commitments to purchase debentures and preferred securities and to guarantee sureties against loss pursuant to programs under this Act and the Small Business Investment Act of 1958, in the full amounts provided by law subject only to (A) the availability of qualified applications, and (B) limitations contained in appropriations Acts. Nothing in this paragraph authorizes the Administration to reduce or limit its authority to enter into such commitments.".

100 STAT. 370

15 USC 661 note.

SEC. 18013. BUSINESS LENDING REFORMS.

15 USC 636.

Section 7(a)(2) of the Small Business Act is amended—

(1) by striking out "$100,000" both places it appears and inserting in lieu thereof "$155,000";

(2) by striking out "90" in subparagraph (B) and inserting in lieu thereof "85";

(3) by striking out "90" in the proviso and inserting in lieu thereof "85"; and

(4) by inserting before the period the following: ": *Provided, further,* That the Administration may reduce its participation below the per centums stated in this paragraph if the lender requests the reduction under the preferred lenders program or any successor thereto. As used in this sentence the term 'preferred lenders program' means a program under which, pursuant to a written agreement between the lender and the Administration, the lender has been delegated (1) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration, and (2) authority to service and liquidate such loans".

SEC. 18014. SURETY GUARANTEES.

15 USC 694b.

Section 411 of the Small Business Investment Act of 1958 is amended—

(1) in subsection (a) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000"; and

(2) in subsection (e)(2) by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000".

SEC. 18015. ELIGIBILITY OF SMALL BUSINESS OWNED BY INDIAN TRIBES.

(a) CONSIDERATION OF INDIAN TRIBES.—Section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(2)(C)) is amended by inserting "Indian tribes," after "Native Americans,".

(b) CLARIFICATION OF DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Paragraph (4) of section 8(a) of such Act (15 U.S.C. 637(a)(4)) is amended to read as follows:

"(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

"(i) which is at least 51 per centum owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe, or

100 STAT. 371

"(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by—

"(I) one or more socially and economically disadvantaged individuals, or

"(II) an economically disadvantaged Indian tribe.

"(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

"(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I), or

"(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II).".

(c) Determination of Economic Disadvantage of an Indian Tribe.—Paragraph (6) of such Act (15 U.S.C. 637(a)(6)) is amended by adding at the end thereof the following new sentence: "In determining the economic disadvantage of an Indian tribe, the Administration shall consider, where available, information such as the following: the per capita income of members of the tribe excluding judgment awards, the percentage of the local Indian population below the poverty level, and the tribe's access to capital markets.".

(d) Definition of "Indian Tribe".—Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end thereof the following new paragraph:

43 USC 1601 note

"(13) For purposes of this subsection, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (within the meaning of the Alaska Native Claims Settlement Act) which—

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or

"(B) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

SEC. 18016. SIZE STANDARD FOR AGRICULTURAL ENTERPRISES.

15 USC 632

Section 3(a) of the Small Business Act is amended by inserting the following before the period at the end of the first sentence: ": *Provided*, That notwithstanding any other provision of law, an agricultural enterprise shall be deemed to be a small business concern if it (including its affiliates) has annual receipts not in excess of $500,000".

SEC. 18017. ENCOURAGEMENT OF VETERANS BUSINESS RESOURCE COUNCILS.

(a) Findings.—The Congress finds that—

California
Ohio
Texas
New York
Massachusetts
Indiana
Louisiana
Maryland
Minnesota
Missouri

(1) Veterans Business Resource Councils have been established in the following ten States: California, Ohio, Texas, New York, Massachusetts, Indiana, Louisiana, Maryland, Minnesota, and Missouri;

(2) the concept of Veterans Business Resource Councils to establish networks of veterans with business experience assisting fellow veterans seeking to establish small businesses merits serious consideration; and

(3) the majority of our Nation's Vietnam era veterans fall within the thirty-five to forty-five-year old age range, in which most people decide to enter into small business ownership.

100 STAT. 372

(b) Recommendations.—The Congress urges the Small Business Administration—

(1) to evaluate the effectiveness of the Veterans Business Resource Councils which are currently operating and to recommend improvements in their operations;

(2) to develop guidelines to assist in the establishment of Veterans Business Resource Councils; and

(3) to work with the remaining States and any interested organizations to encourage the establishment of Veterans Business Resource Councils in those States.

TITLE XIX—VETERANS' PROGRAMS

Veterans' Health-Care Amendments of 1986
38 USC 101 note

SEC. 19001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) Short Title.—This title may be cited as the "Veterans' Health-Care Amendments of 1986".

(b) **References.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subtitle A—Health Care

SEC. 19011. ELIGIBILITY FOR HEALTH CARE OF VETERANS WITH NON-SERVICE-CONNECTED DISABILITIES.

(a) **Hospital Care and Nursing Home Care.**—(1) Subsection (a) of section 610 is amended to read as follows:

38 USC 610.

"(a)(1) The Administrator shall furnish hospital care, and may furnish nursing home care, which the Administrator determines is needed—

"(A) to any veteran for a service-connected disability;

"(B) to a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty, for any disability;

"(C) to a veteran who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement described in such section, for any disability;

"(D) to a veteran who has a service-connected disability rated at 50 percent or more, for any disability;

"(E) to any other veteran who has a service-connected disability, for any disability;

"(F) to a veteran who is a former prisoner of war, for any disability;

"(G) to a veteran exposed to a toxic substance or radiation, as provided in subsection (e) of this section;

"(H) to a veteran of the Spanish-American War, the Mexican border period, or World War I, for any disability; and

"(I) to a veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

100 STAT. 373

"(2)(A) To the extent that resources and facilities are available, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to a veteran for a non-service-connected disability if the veteran has an income level described in section 622(a)(2) of this title.

38 USC 622.

"(B) In the case of a veteran who is not described in paragraph (1) of this subsection or in subparagraph (A) of this paragraph, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to the veteran for a non-service-connected disability—

"(i) to the extent that resources and facilities are otherwise available; and

"(ii) subject to the provisions of subsection (f) of this section.

"(3) In addition to furnishing hospital care and nursing home care described in paragraphs (1) and (2) of this subsection through Veterans' Administration facilities, the Administrator may furnish such hospital care in accordance with section 603 of this title and may furnish such nursing home care as authorized under section 620 of this title.".

(2) Such section is further amended by adding at the end the following new subsections:

Prohibition.

"(f)(1) The Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care by reason of subsection (a)(2)(B) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

"(A) the cost of furnishing such care, as determined by the Administrator; and

"(B) the amount determined under paragraph (3) of this subsection.

Medicare.

"(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is—

"(i) the amount of the inpatient Medicare deductible, plus

"(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

"(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(B) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

"(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

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"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

"(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

"(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

"(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

Prohibition.

"(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

"(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or "(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

"(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under section 612(f) of this title to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under section 612(f)(4) of this title for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

Prohibition.

38 USC 612.

"(4) Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.

"(5) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

"(g) Nothing in this section requires the Administrator to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.".

State and local governments.

(b) MEDICAL SERVICES FURNISHED ON AN OUTPATIENT OR AMBULATORY BASIS.—(1) Subsection (a) of section 612 is amended—

38 USC 612.

(A) by striking out the first sentence and inserting in lieu thereof the following:

"(1) Except as provided in subsection (b) of this section, the Administrator may furnish such medical services as the Administrator determines are needed—

"(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service); and

"(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or more.";

(B) by designating the sentence beginning "The Administrator may also" as paragraph (2) and in such sentence striking out "The Administrator may also furnish to any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(C) by striking out the sentence beginning "In the case of"; and

(D) by adding at the end of such subsection the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(2) Subsection (f) of such section is amended—

(A) by striking out "The Administrator, within the limits of Veterans' Administration facilities, may" and inserting in lieu thereof "(1) Except as provided in paragraph (4) of this subsection, the Administrator may";

(B) by redesignating clause (1) as clause (A), redesignating subclauses (A) and (B) of such clause as subclauses (i) and (ii), respectively, and inserting "and" at the end of such clause;

(C) by striking out clause (2);

(D) by redesignating clause (3) as clause (B);

(E) by designating the second sentence as paragraph (2) and in such sentence striking out "The Administrator may also furnish to any such veteran" and inserting in lieu thereof "As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran";

(F) by striking out the third sentence; and

(G) by adding at the end the following:

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

Prohibition.

"(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection) to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under subparagraph (B) of this paragraph.

"(B) A veteran who is furnished medical services under this subsection and who is required under subparagraph (A) of this paragraph to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

Prohibition.
Medicare.

38 USC 610.

"(C) A veteran may not be required to make a payment under this paragraph for services furnished under this subsection during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this paragraph for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

"(D) This subsection does not apply with respect to home health services under this subsection to the extent that such services are for improvements and structural alterations.

"(E) For the purposes of this paragraph, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

"(F) Amounts collected or received by the Veterans' Administration under this paragraph shall be deposited in the Treasury as miscellaneous receipts.".

(3) Subsection (g) of such section is amended to read as follows:

"(g)(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

"(A) who is a veteran of the Mexican border period or of World War I; or

"(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

"(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.".

(4) Subsection (i) of such section is amended by adding at the end the following:

"(6) To any veteran who is in receipt of pension under section 521 of this title.".

(c) INCOME THRESHOLDS FOR CERTAIN NON-SERVICE-CONNECTED CARE.—(1) Section 622 is amended to read as follows:

38 USC 622.

"§ 622. Determination of inability to defray necessary expenses; income thresholds

"(a)(1) For the purposes of section 610(a)(1)(I) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

"(A) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(B) the veteran is in receipt of pension under section 521 of this title; or

38 USC 521.

"(C) the veteran's attributable income is not greater than the Category A threshold.

"(2) For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold.

"(b) For the purposes of this section:

"(1) The Category A threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $15,000 in the case of a veteran with no dependents; and

"(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(2) The Category B threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $20,000 in the case of a veteran with no dependents; and

"(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(c) Effective on January 1 of each year, the amounts in effect under paragraphs (1) and (2) of subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 3112(a) of this title during the preceding calendar year.

Effective date.

"(d)(1) Notwithstanding the attributable income of a veteran, the Administrator may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

"(2) A determination described in this paragraph is a determination—

"(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

"(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold.

"(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 522 of this title.

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"(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Administrator may deem the veteran to have an attributable income during the previous year not greater than the Category A threshold or the Category B threshold, as appropriate.

"(2)(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

"(i) the veteran has an attributable income greater than the Category A threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(B) A veteran is described in this paragraph for the purposes of subsection (a)(2) of this section if—

"(i) the veteran has an attributable income greater than the Category B threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(f) For purposes of this section:

"(1) The term 'attributable income' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 521 of this title would be reduced if such veteran were eligible for pension under that section.

38 USC 521.

"(2) The term 'corpus of the estate of the veteran' includes the corpus of the estates of the veteran's spouse and dependent children, if any.

"(3) The term 'previous year' means the calendar year preceding the year in which the veteran applies for care or services under section 610(a) or 612(f) of this title.

"(g) For the purposes of sections 610(b)(2) and 624(c) of this title, the fact that a veteran is—

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.";

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Determination of inability to defray necessary expenses; income thresholds.".

Effective date.
38 USC 622 note.

(3) The first increase under subsection (c) of section 622 of title 38, United States Code, as added by paragraph (1), shall take effect on January 1, 1987.

38 USC 525.

(d) Conforming Amendments.—(1) Section 525(a) is amended by striking out "section 612(i)(5) of this title" and inserting in lieu thereof "clauses (5) and (6) of section 612(i)".

38 USC 601.

(2) Section 601(6) is amended—

(A) in clause (A)(i), by striking out "section 612(f)(1)(A)" and inserting in lieu thereof "section 612(f)(1)(A)(i)", and

(B) in clause (B)(ii), by striking out "section 612(f)(1)(B)" and inserting in lieu thereof "section 612(f)(1)(A)(ii)".

100 STAT. 379

38 USC 610.

(3) Section 610(e) is amended—

(A) by striking out "may be furnished hospital care or nursing home care under subsection (a)(5)" in subparagraphs (A) and (B) of paragraph (1) and inserting in lieu thereof "is eligible for hospital care and nursing home care under subsection (a)(1)(G)"; and

(B) by striking out "subsection (a)(5)" in paragraphs (2) and (3) and inserting in lieu thereof "subsection (a)(1)(G)".

38 USC 612A.

(4) Section 612A is amended—

(A) by striking out "clause "(1)(B)" in subsection (b)(1) and inserting in lieu thereof "paragraph (1)(A)(ii)"; and

(B) by striking out "612(f)(2)" in subsection (e)(1) and inserting in lieu thereof "612(a)(1)(B)".

(5) Section 620(f)(1)(A)(ii) is amended by striking out "612(f)(2)" and inserting in lieu thereof "612(a)(1)(B)". 38 USC 620.

(6) Section 663(a)(1) is amended by striking out "612(f)(2)" both places it appears and inserting in lieu thereof "612(a)(1)(B)". 38 USC 663.

(e) REPORTS ON FURNISHING OF HEALTH CARE AND IMPLEMENTATION OF CHANGES IN ELIGIBILITY.—(1) The Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report for each of fiscal years 1986, 1987, and 1988 concerning the implementation of the amendments made by this section. 38 USC 610 note.

(2) Each report under paragraph (1) shall provide detailed information with respect to the fiscal year for which it is submitted regarding—

(A) the number of veterans who received health care from the Veterans' Administration during the fiscal year concerned (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care);

(B) with respect to veterans who applied for health care from the Veterans' Administration during such fiscal year but did not receive such care—

(i) the number of such veterans (shown in total and separately for hospital care, nursing home care, outpatient care, and domiciliary care); and

(ii) the primary reasons why such care was not furnished;

(C) the guidelines and processes for—

(i) implementation of the income-threshold criteria for Veterans' Administration health-care eligibility established by paragraph (1)(I) and subparagraphs (A) and (B) of paragraph (2) of section 610(a) of title 38, United States Code (as added by subsection (a)), paragraph (4) of section 612(f) of such title (as added by subsection (b)), and section 622 of such title (as amended by subsection (c)); and

(ii) the collection of payments required by section 610(f) of such title (as added by subsection (a)(2)) and by section 612(f)(4) of such title (as added by subsection (b)(2));

(D) the numbers and characteristics of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of any such authorities, including—

(i) with respect to those eligible by reason of each such authority, the numbers who applied for and were furnished such care, the type and extent of such care that they were furnished, and their incomes and family sizes; and

(ii) with respect to veterans eligible by reason of section 610(a)(2)(B) of such title, the average and total payments made by such veterans for such care (shown in total and separately for hospital care, nursing home care, and outpatient care); and 38 USC 610.

(E) the numbers of, and the type and extent of health care furnished by the Veterans' Administration to, veterans eligible for such care by reason of each clause of section 610(a)(1) of such title (shown in total and separately for veterans with service-connected disabilities for each percentile disability rating).

The report for fiscal year 1986 shall include information relating only to care furnished on or after July 1, 1986. Effective date.

(3) Each report under this subsection shall be submitted not later than the February 1 following the end of the fiscal year for which it is required. Effective date.

38 USC 610 note.

(f) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to hospital care, nursing home care, and medical services furnished on or after July 1, 1986.

Regulations.

(2)(A) The provisions of sections 610 and 622 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall apply with respect to hospital and nursing home care furnished on or after July 1, 1986, to veterans furnished such care or services on June 30, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on June 30, 1986, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe.

(B) During the months of July and August 1986, the Administrator may, in order to continue a course of treatment begun before July 1, 1986, furnish medical services to a veteran on an ambulatory or outpatient basis without regard to the amendments made by this section.

(C) For the purposes of this paragraph, the term "episode of care" means a period of consecutive days—

(i) beginning with the first day on which a veteran is furnished hospital or nursing home care; and

(ii) ending on the day of the veteran's discharge from the hospital or nursing home facility, as the case may be.

SEC. 19012. TECHNICAL REVISION OF AUTHORITY TO CONTRACT FOR HOSPITAL CARE AND MEDICAL SERVICES.

38 USC 601.

(a) REPEAL OF CONTRACT AUTHORITY FROM DEFINITION OF VETERANS' ADMINISTRATION FACILITIES.—Section 601 is amended—

(1) in paragraph (4)—

(A) by inserting "and" at the end of clause (A); and

(B) by striking out the semicolon at the end of clause (B) and all that follows through the end of such paragraph and inserting in lieu thereof a period; and

(2) by adding at the end the following new paragraph:

"(9) The term 'non-Veterans' Administration facilities' means facilities other than Veterans' Administration facilities.".

(b) REENACTMENT OF CONTRACT AUTHORITY.—(1) Chapter 17 is amended by inserting after section 602 the following new section:

100 STAT. 381

38 USC 603.

"§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities

38 USC 610, 612.

"(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to furnish—

"(1) hospital care or medical services to a veteran for the treatment of—

"(A) a service-connected disability; or

"(B) a disability for which a veteran was discharged or released from the active military, naval, or air service;

"(2) medical services for the treatment of any disability of—

"(A) a veteran described in section 612(a)(1)(B) of this title;

"(B) a veteran described in section 612(f)(1)(A)(ii) of this title; or

"(C) a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration facilities;

"(3) hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration facility;

"(4) hospital care for women veterans;

State and local governments.
Expiration date.

"(5) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico of the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical services;

"(6) diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital admission; or

100 STAT. 382

"(7) outpatient dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

38 USC 612.

"(b) In the case of any veteran for whom the Administrator contracts to furnish care or services in a non-Veterans' Administration facility pursuant to a provision of subsection (a) of this section, the Administrator shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 602 the following new item:

"603. Contracts for hospital care and medical services in non-Veterans' Administration facilities.".

38 USC 612.

(c) CONFORMING AMENDMENTS.—(1) Section 612(b)(3) is amended by striking out "clause (i), (ii), or (v) of section 601(4)(C)" and inserting in lieu thereof "clause (1), (2), or (5) of section 603(a)".

(2) Section 612(b)(4) is amended by striking out "section 601(4)(C)" both places it appears and inserting in lieu thereof "section 603".

38 USC 612A.

(3) Section 612A(e)(1) is amended by striking out "601(4)(C)(ii)" and inserting in lieu thereof "603(a)(2)".

38 USC 903.

(4) Section 903(a) is amended by inserting "hospital care in accordance with section 603 of this title or" after "was receiving".

(5) Section 102(b) of the Veterans' Administration Health-Care Amendments of 1985 (Public Law 99-166) is amended—

38 USC 601, 603.

(A) by striking out "such section" in paragraph (1) and inserting in lieu thereof "section 603(a)(5)"; and

38 USC 601 note, 603 note.

(B) by striking out "clause (v) of section 601(4)(C)" in paragraph (5) and inserting in lieu thereof "section 603(a)(5)".

SEC. 19013. RECOVERY OF THE COST OF CERTAIN HEALTH CARE AND SERVICES FURNISHED BY THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Section 629 is amended to read as follows:

38 USC 629.

"§ 629. Recovery by the United States of the cost of certain care and services

"(a)(1) Subject to the provisions of this section, in any case in which a veteran is furnished care or services under this chapter for a non-service-connected disability described in paragraph (2) of this subsection, the United States has the right to recover or collect the reasonable cost of such care or services (as determined by the Administrator) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

State and local governments.

"(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

"(A) that is incurred incident to the veteran's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and services provided to the veteran by reason of the disability;

"(B) that is incurred as the result of a motor vehicle accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

100 STAT. 383

"(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime; or

"(D) that is incurred by a veteran—

"(i) who does not have a service-connected disability; and

"(ii) who is entitled to care (or payment of the expenses of care) under a health-plan contract.

Contracts.

"(3) In the case of a health-plan contract that contains a requirement for payment of a deductible or copayment by the veteran—

"(A) the veteran's not having paid such deductible or copayment with respect to care or services furnished under this chapter shall not preclude recovery or collection under this section; and

"(B) the amount that the United States may collect or recover under this section shall be reduced by the appropriate deductible or copayment amount, or both.

Claims.

"(b)(1) As to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party.

"(2)(A) In order to enforce any right or claim to which the United States is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

"(B) The United States may institute and prosecute legal proceedings against the third party if—

"(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care or services for which recovery is sought are furnished to the veteran by the Administrator under this chapter;

"(ii) the United States has sent written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

"(iii) a period of 60 days has passed following the mailing of such notice.

Claims.

"(c)(1) The Administrator may compromise, settle, or waive any claim which the United States has under this section.

Regulations.

"(2)(A) The Administrator, after consultation with the Comptroller General of the United States, shall prescribe regulations for the purpose of determining the reasonable cost of care or services under subsection (a)(1) of this section. Any determination of such cost shall be made in accordance with such regulations.

"(B) Such regulations shall provide that the reasonable cost of care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Administrator it would pay for the care or services in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with facilities (other than facilities of departments or agencies of the United States) in the same geographic area.

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Reports.

"(C) Not later than 45 days after the date on which the Administrator prescribes such regulations (or any amendment to such regulations), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendment).

Contracts.

"(d) Any contract or agreement into which the Administrator enters with a person under section 3718 of title 31 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to sections 3301 and 4132 of this title.

38 USC 3301, 4132.
Prohibitions.

"(e) A veteran eligible for care or services under this chapter—

"(1) may not be denied such care or services by reason of this section; and

"(2) may not be required by reason of this section to make any copayment or deductible payment in order to receive such care.

Prohibition.

"(f) No law of any State or of any political subdivision of a State, and no provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 611(b) of this title.

"(g) Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.

Records.
Public availability.

"(h)(1) Subject to paragraph (3) of this subsection, the Administrator shall make available medical records of a veteran described in paragraph (2) of this subsection for inspection and review by representatives of the third party concerned for the sole purposes of permitting the third party to verify—

"(A) that the care or services for which recovery or collection is sought were furnished to the veteran; and

"(B) that the provision of such care or services to the veteran meets criteria generally applicable under the health-plan contract involved.

Contracts.

"(2) A veteran described in this paragraph is a veteran who is a beneficiary of a health-plan contract under which recovery or collection is sought under this section from the third party concerned for the cost of the care or services furnished to the veteran.

Confidentiality.
Regulations.

"(3) Records shall be made available under this subsection under such conditions to protect the confidentiality of such records as the Administrator shall prescribe in regulations.

"(i) For purposes of this section—

"(1)(A) The term 'health-plan contract' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid.

"(B) Such term does not include—

"(i) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of such Act (42 U.S.C. 1395j);

"(ii) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.);

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"(iii) a workers' compensation law or plan described in subparagraph (A) of subsection (a)(2) of this section; or

"(iv) a program, plan, or policy under a law described in subparagraph (B) or (C) of such subsection.

"(2) The term 'payment' includes reimbursement and indemnification.

"(3) The term 'third party' means—

"(A) a State or political subdivision of a State;

"(B) an employer or an employer's insurance carrier;

"(C) an automobile accident reparations insurance carrier; or

"(D) a person obligated to provide, or to pay the expenses of, health services under a health-plan contract.".

38 USC 629 note.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), section 629 of title 38, United States Code, as amended by subsection (a), shall apply to care and services provided on or after the date of the enactment of this Act.

Contracts.

(2)(A) Such section shall not apply so as to nullify any provision of a health-plan contract (as defined in subsection (i) of such section) that—

(i) was entered into before the date of the enactment of this Act; and

(ii) is not modified or renewed on or after such date.

(B) In the case of a health-plan contract (as so defined) that was entered into before such date and which is modified or renewed on or after such date, the amendment made by subsection (a) shall apply—

(i) with respect to such plan as of the day after the date that it is so modified or renewed; and

(ii) with respect to care and services provided after such date of modification or renewal.

(3) For purposes of paragraph (2), the term "modified" includes any change in premium or coverage.

38 USC 629 note.

(c) REPORTS.—(1) Not later than six months after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the process for and results of the implementation of section 629 of title 38, United States Code, as amended by subsection (a). Such report shall show the costs of administration (and a detailed breakdown of such costs) and the amount of receipts and collections under such section.

(2) Not later than February 1, 1988, the Administrator shall submit to such Committees a report—

(A) updating the information in the report submitted under paragraph (1); and

(B) providing information on the process and results of such implementation through at least the end of fiscal year 1987.

Subtitle B—Miscellaneous Provisions

SEC. 19031. STUDY OF EFFECT OF VIETNAM EXPERIENCE ON HEALTH STATUS OF WOMEN VIETNAM VETERANS.

38 USC 219 note.

(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1)(A) Except as provided in paragraph (2), the Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse health effects (particularly gender-specific health effects) which have been experienced by women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era and which may have resulted from traumatic experiences during such service, from exposure during such service to phenoxy herbicides (including the herbicide known as Agent Orange), to other herbicides, chemicals, or medications that may have deleterious health effects, or to environmental hazards, or from any other experience or exposure during such service.

(B) The Administrator may include in the study conducted under this paragraph an evaluation of the means of detecting and treating long-term adverse health effects (particularly gender-specific health effects) found through the study.

(2)(A) If the Administrator, in consultation with the Director of the Office of Technology Assessment, determines that it is not feasible to conduct a scientifically valid study of an aspect of the matters described in paragraph (1)—

(i) the Administrator shall promptly submit to the appropriate committees of the Congress a notice of that determination and the reasons for the determination; and

(ii) the Director, not later than 60 days after the date on which such notice is submitted to the committees, shall submit to such committees a report evaluating and commenting on such determination.

Report.

(B) The Administrator is not required to study any aspect of the matters described in paragraph (1) with respect to which a determination is made and a notice is submitted pursuant to subparagraph (A)(i).

(C) If the Administrator submits to the Congress notice of a determination made pursuant to subparagraph (A) that it is not scientifically feasible to conduct the study described in paragraph (1)(A), this section (effective as of the date of such notice) shall cease to have effect as if repealed by law.

Termination

(3) The Administrator shall provide for the study to be conducted through contracts or other agreements with private or public agencies or persons.

Contracts.

(b) Approval of Protocol.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

(2) Not later than July 1, 1986, the Administrator shall publish a request for proposals for the design of the protocol to be used in conducting the study under this section.

(3) In considering any proposed protocol for use or approval under this subsection, the Administrator and the Director shall take into consideration—

(A) the protocol approved under section 307(a)(2)(A)(i) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note); and

(B) the experience under the study being conducted pursuant to that protocol.

(c) OTA Reports.—(1) Concurrent with the approval or disapproval of any protocol under subsection (b)(1), the Director shall submit to the appropriate committees of the Congress a report—

(A) explaining the reasons for the Director's approval or disapproval of the protocol, as the case may be; and

(B) containing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

(2) If the Director has not approved a protocol under subsection (b)(1) by the last day of the 180-day period beginning on the date of the enactment of this Act, the Director—

(A) shall, on such day, submit to the appropriate committees of the Congress a report describing the reasons why the Director has not approved such a protocol; and

(B) shall, each 60 days thereafter until such a protocol is approved, submit to such committees an updated report on the report required by clause (A).

(d) OTA Monitoring of Compliance.—(1) In order to ensure compliance with the protocol approved under subsection (b)(1), the Director shall monitor the conduct of the study under subsection (a).

Report.

(2)(A) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in subparagraph (B), a report on the Director's monitoring of the conduct of the study pursuant to paragraph (1).

(B) A report shall be submitted under subparagraph (A)—

(i) before the end of the 6-month period beginning on the date on which the Director approves the protocol referred to in paragraph (1);

(ii) before the end of the 12-month period beginning on such date; and

(iii) annually thereafter until the study is completed or terminated.

(e) DURATION OF STUDY.—The study conducted pursuant to subsection (a) shall be continued for as long after the date on which the first report is submitted under subsection (f)(1) as the Administrator determines that there is a reasonable possibility of developing, through such study, significant new information on the health effects described in subsection (a)(1).

(f) REPORTS.—(1) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing—

(A) a description of the results obtained, before the date of such report, under the study conducted pursuant to subsection (a); and

(B) any administrative actions or recommended legislation, or both, and any additional comments which the Administrator considers appropriate in light of such results.

Federal Register, publication.

(2) Not later than 90 days after the date on which each report required by paragraph (1) is submitted, the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator plans or proposes to take with respect to programs administered by the Veterans' Administration based on—

(A) the results described in such report;

(B) the comments and recommendations received on that report; and

(C) any other available pertinent information.

Each such description shall include a justification or rationale for the planned or proposed action.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term "gender-specific health effects" includes—

(A) effects on female reproductive capacity and reproductive organs;

(B) effects on reproductive outcomes;

(C) effects on female-specific organs and tissues; and

(D) other effects unique to the physiology of females.

100 STAT. 388

(2) The term "Vietnam era" has the meaning given such term in section 101(29) of title 38, United States Code.

38 USC 219 note.

SEC. 19032. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) ESTABLISHMENT OF COMMITTEE.—Not later than May 1, 1986, the Administrator of Veterans' Affairs shall establish an advisory committee to be known as the Advisory Committee on Native-American Veterans (hereinafter in this section referred to as the "Committee").

(b) DUTIES.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of veterans who are Native Americans, including American Indians and Alaska Natives. Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, readjustment counseling, outreach services, and other benefits and services under programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) MEMBERS.—The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their representatives; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of veterans who are Native Americans, including American Indians and Alaska Natives and such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including the specific health-care needs of such veterans and the furnishing of health-care services by the Veterans' Administration to such veterans.

(d) PARTICIPATION BY OTHER AGENCIES.—The Administrator may invite representatives of other departments and agencies of the Federal Government to participate in the meetings and other activities of the Committee.

(e) NUMBER AND PAY OF MEMBERS.—The Administrator shall determine the number and pay and allowances of the members of the Committee appointed by the Administrator.

(f) REPORTS.—(1) Not later than February 1, 1987, and February 1, 1988, the Committee shall submit to the Administrator a report containing the findings and any recommendations of the Committee regarding the matters described in subsection (b) that were examined and evaluated by the Committee during the preceding fiscal year.

(2) Not later than 60 days after receiving each such report, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Administrator considers appropriate.

(g) ALASKA NATIVE DEFINED.—For the purposes of this section, the term "Alaska Native" has the meaning given the term "Native" in 100 STAT. 389
section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(h) TERMINATION.—The Committee shall terminate 90 days after the date on which the second report is transmitted by the Committee pursuant to subsection (f)(2).

SEC. 19033. WAIVER OF CONGRESSIONAL NOTICE-AND-WAIT PERIOD FOR ADMINISTRATIVE REORGANIZATION OF CERTAIN VETERANS' ADMINISTRATION AUTOMATED DATA PROCESSING ACTIVITIES.

(a) WAIVER.—The Administrator of Veterans' Affairs may undertake the administrative reorganization described in subsection (b) without regard to the requirements of section 210(b)(2) of title 38, United States Code.

(b) COVERED ADMINISTRATIVE REORGANIZATION.—The administrative reorganization referred to in subsection (a) is a reorganization that—

(1) involves the transfer of certain functions from the Office of Data Management and Telecommunications of the Veterans' Administration to the Department of Veterans' Benefits of the Veterans' Administration; and

(2) is described in letters dated November 1, 1985, that were submitted by the Administrator to the chairmen and ranking minority members of the Committees on Veterans' Affairs of the Senate and House of Representatives.

SEC. 19034. RATIFICATION OF CERTAIN TEMPORARILY EXPIRED AUTHORITIES.

(a) Veterans' Administration Regional Office in the Republic of the Philippines.—Any action by the Administrator of Veterans' Affairs in providing, during the ratification period, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period.

(b) Contract Care Authority in Puerto Rico and the Virgin Islands.—Any action by the Administrator in entering into a contract applicable to the ratification period for furnishing care described in subclause (v) of section 601(4)(C) of title 38, United States Code, any action by the Administrator under such contract, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

(c) Alcohol and Drug Treatment and Rehabilitation Contract Program.—Any action by the Administrator in entering into a contract described in section 620A(a) of title 38, United States Code, that is applicable to the ratification period, and any action by the Administrator under such contract, is hereby ratified with respect to that period.

(d) Ratification Period Defined.—For the purposes of this section, the term "ratification period" means the period beginning on November 1, 1985, and ending on December 3, 1985.

100 STAT. 390

TITLE XX—MISCELLANEOUS PROVISIONS

Congress. Budget, Federal.

SEC. 20001. MISCELLANEOUS PROVISIONS.

2 USC 641.

(a) When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 310 of the Congressional Budget Act of 1974, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined in subsection (d) shall be deemed stricken from the bill and may not be offered as an amendment from the floor. An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section, as well as to waive or suspend the provisions of this subsection.

2 USC 636.

(b) No motion to waive or suspend the requirement of section 305(b)(2) of the Congressional Budget Act of 1974, as it relates to germaneness with respect to a reconciliation bill or resolution, shall be agreed to unless supported by an affirmative vote of three-fifths of the Members, duly chosen and sworn, which super-majority shall be required to successfully appeal the ruling of the Chair on a point of order raised under that section, as well as to waive or suspend the provisions of this subsection.

Effective date.

(c) This section shall become effective on the date of enactment of this title and shall remain in effect until January 2, 1987.

(d)(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 310 of the Congressional Budget Act of 1974 shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected; (B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions; (C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous; (D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision.

(2) A provision shall not be considered extraneous under (1)(A) above if: (A) it is designed to mitigate the direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit; (B) it will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution; (C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; (D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

100 STAT. 391

Approved April 7, 1986.

LEGISLATIVE HISTORY—H.R. 3128 (H.R. 3500) (S. 1730):

HOUSE REPORTS: No. 99-241, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Education and Labor), Pt. 3 (Comm. on the Judiciary), No. 99-300 accompanying H.R. 3500 (Comm. on the Budget), and No. 99-453 (Comm. of Conference).

SENATE REPORT No. 99-146 accompanying S. 1730 (Comm. on the Budget).

CONGRESSIONAL RECORD:

Vol. 131 (1985): Oct. 15, 16, 22-24; Nov. 12-14, S. 1730 considered in Senate.
Oct. 31, H.R. 3128 considered and passed House.
Nov. 14, considered and passed Senate, amended, in lieu of S. 1730.
Dec. 5, House agreed to Senate amendment with amendment.
Dec. 19, Senate agreed to conference report; House receded from its amendment and concurred in Senate amendment with amendment; Senate concurred in House amendment with amendment.

Vol. 132 (1986): Mar. 6, House concurred in Senate amendment with amendment.
Mar. 14, Senate concurred in House amendment with amendment.
Mar. 18, House disagreed to Senate amendment. Senate insisted on its amendment.
Mar. 20, House concurred in Senate amendment.

100 STAT. 1874 *Public Law 99-509
99th Congress

An Act

Oct. 21, 1986
[H.R. 5300]

To provide for reconciliation pursuant to section 2 of the concurrent resolution on the budget for fiscal year 1987.

Omnibus Budget Reconciliation Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Budget Reconciliation Act of 1986".

(b) TABLE OF CONTENTS.—

Title I. Agriculture programs.
Title II. Banking and housing programs.
Title III. Energy and environmental programs.
Title IV. Transportation and related programs.
Title V. Maritime programs.
Title VI. Civil service, Postal Service, and governmental affairs generally.
Title VII. Fiscal procedures.
Title VIII. Revenues, trade, and related programs.
Title IX. Income security, medicare, medicaid, and maternal and child health programs.

TITLE I—AGRICULTURAL PROGRAMS

Subtitle A—Sale of Notes

SEC. 1001. SALE OF RURAL DEVELOPMENT NOTES.

7 USC 1929a note.

(a) SALES REQUIRED.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of not less than—

7 USC 1929a.

(1) $1,000,000,000 from such sales during fiscal year 1987,
(2) $552,000,000 from such sales during fiscal year 1988, and
(3) $547,000,000 from such sales during fiscal year 1989.

(b) NONRECOURSE SALES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

7 USC 1929a note.

(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in

100 STAT. 1875

subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

7 USC 1983.

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*Note: This is a subsequently typeset print of the hand enrollment which was signed by the President on October 21, 1986.

7 USC 1929a note.

(d) Eligibility to Purchase Notes.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

7 USC 1929 note.

(e) Loan Servicing.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 1002. LIMITATION ON SALES FROM THE AGRICULTURAL CREDIT INSURANCE FUND.

7 USC 1729 note.

During fiscal years 1987 through 1989, no note shall be sold out of the Agricultural Credit Insurance Fund, except in connection with transactions with the Secretary of the Treasury, without prior approval by Congress.

Subtitle B—Prepayment of Loans

SEC. 1011. PREPAYMENT OF REA GUARANTEED LOANS.

7 USC 936a.
Banks and banking.

(a) Amendment to Rural Electrification Act of 1936.—The Rural Electrification Act of 1936 is amended by inserting after section 306 (7 U.S.C. 936) the following new sections:

"SEC. 306A. PREPAYMENT OF LOANS.

"(a) Except as provided in subsection (c), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of this Act may prepay such loan (or any loan advance thereunder) by paying the outstanding principal balance due on the loan (or advance), if—

"(1) the loan is outstanding on July 2, 1986;

"(2) private capital, with the existing loan guarantee, is used to replace the loan; and

"(3) the borrower certifies that any savings from such prepayment will be passed on to its customers or used to improve the financial strength of the borrower in cases of financial hardship.

"(b) No sums in addition to the payment of the outstanding principal balance due on the loan may be charged as the result of such prepayment against the borrower, the fund, or the Rural Electrification Administration.

Banks and banking.

"(c)(1) A borrower will not qualify for prepayment under this section if, in the opinion of the Secretary of the Treasury, to prepay in such borrower's case would adversely affect the operation of the Federal Financing Bank.

Effective date.

"(2) Paragraph (1) shall be effective in fiscal year 1987 only for any loan the prepayment of the principal amount of which will cause the cumulative amount of net proceeds from all such prepayments made during such year to exceed $2,017,500,000.

"(d)(1) The Administrator shall permit, subject to subsection (a), prepayments of principal on loans in fiscal year 1987 under this

Ante, p. 710.

section or Public Law 99-349 in such amounts as to realize net proceeds from all such prepayments in fiscal year 1987 in an amount not less than $2,017,500,000.

"(2) The Administrator shall establish—

"(A) eligibility criteria to ensure that any loan prepayment activity required to be carried out under this subsection will be directed to those cooperative borrowers in greatest need of the benefits associated with prepayment, as determined by the Administrator; and

"(B) such other eligibility criteria as the Administrator determines are necessary to carry out this subsection.

Securities.
7 USC 936.

"(e) Any guarantee of a loan prepaid under this section shall be fully assignable under the provisions of section 306 of this Act and transferable. However, the Administrator may require that any such guarantee, if transfered or assigned, be transferred or assigned to a loan or security that, if sold, will be grouped with nonguaranteed loans or securities and sold in a manner to ensure that such sale will not unreasonably compete with the marketing of obligations of the United States.

7 USC 936b.

"SEC. 306B. SALE OR PREPAYMENT OF DIRECT OR INSURED LOANS.

"A direct or insured loan made under this Act shall not be sold or prepaid at a value less than the face value of any outstanding principal balance on such loan, except when sold to or prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at the rate set by the Administrator. The exception contained in the preceding sentence shall be effective for the period ending September 30, 1987.".

Effective date.

7 USC 936 note.

(b) CONFORMING AMENDMENT.—Chapter I of the Act entitled "An Act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes" (Public Law 99-349), approved July 2, 1986, is amended by striking out the undesignated paragraph relating to the prepayment of loans by Rural Electrification and Telephone Systems.

Ante, p. 710.

7 USC 936a note.

(c) REGULATIONS.—The Secretary of Agriculture shall issue regulations to implement this section within 60 days after the date of enactment of this Act. Such regulations—

(1) shall facilitate prepayment of loans under section 306A of the Rural Electrification Act of 1936, as added by subsection (a); and

Ante, p. 1875.

Utilities.

(2) may not require any rural utility that is a borrower of loans subject to section 306A to make unreasonable reductions in rates to its customers as a condition of such prepayment.

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Subtitle C—Advance Deficiency Payments

7 USC 1445b-2 note.

SEC. 1021. ADVANCE DEFICIENCY PAYMENTS.

7 USC 1445b-2.

Notwithstanding any other provision of law, the Secretary of Agriculture, in accordance with the criteria in section 107C of the Agricultural Act of 1949, shall make advance deficiency payments available for the 1987 crops of wheat, feed grains, upland cotton, and rice. The percentage of the projected payment rate used in computing such payments shall not be less than (1) 40 percent in the case of wheat and feed grains, and (2) 30 percent in the case of rice and upland cotton.

Farm Credit Act Amendments of 1986.
12 USC 2001 note.

Subtitle D—Farm Credit Institutions

SEC. 1031. SHORT TITLE.

This subtitle may be cited as the "Farm Credit Act Amendments of 1986".

SEC. 1032. POLICY.

Loans.

Section 1.1 of the Farm Credit Act of 1971 (12 U.S.C. 2001) is amended by adding at the end thereof the following new subsection:

12 USC 2159.
Post., p. 1878.

"(c) It is declared to be the policy of Congress that the credit needs of farmers, ranchers, and their cooperatives are best served if the institutions of the Farm Credit System provide equitable and competitive interest rates to eligible borrowers, taking into consideration the creditworthiness and access to alternative sources of credit for borrowers, the cost of funds, including any costs of defeasance under section 4.8(b), the operating costs of the institution, including the costs of any loan loss amortization under section 5.19(b), the cost of servicing loans, the need to retain earnings to protect borrowers' stock, and the volume of net new borrowing. Further, it is declared to be the policy of Congress that Farm Credit System institutions take action in accordance with the Farm Credit Act Amendments of 1986 in such manner that borrowers from the institutions derive the greatest benefit practicable from that Act: *Provided*, That in no case is any borrower to be charged a rate of interest that is below competitive market rates for similar loans made by private lenders to borrowers of equivalent creditworthiness and access to alternative credit.".

SEC. 1033. TERMINATION OF FARM CREDIT ADMINISTRATION APPROVAL OF INTEREST RATES CHARGED BY SYSTEM INSTITUTIONS.

(a) **Federal Land Banks.**—The first sentence of section 1.7 of the Farm Credit Act of 1971 (12 U.S.C. 2015) is amended by striking out ", with the approval of the Farm Credit Administration as provided in section 4.17 of this Act".

(b) **Federal Intermediate Credit Banks.**—The second sentence of section 2.4 of the Farm Credit Act of 1971 (12 U.S.C. 2075) is amended by striking out "with the approval of the Farm Credit Administration as provided in section 4.17 of this Act".

(c) **Banks for Cooperatives.**—The first sentence of section 3.10(a) of the Farm Credit Act of 1971 (12 U.S.C. 2131(a)) is amended by striking out ", with the approval of the Farm Credit Administration as provided in section 4.17 of this Act".

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SEC. 1034. CERTAIN TRANSACTIONS WITH RESPECT TO SYSTEM OBLIGATIONS.

Section 4.8 of the Farm Credit Act of 1971 (12 U.S.C. 2159) is amended by—

(1) inserting the designation "(a)" after the heading; and

(2) adding at the end thereof the following:

Contracts.
12 USC 2211.

"(b) Through December 31, 1988, each bank of the System, in addition to purchasing obligations as authorized by this Act, may, with the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, (1) reduce the cost of its borrowings by doing one or more of the following: (A) contracting with a third party, or an entity that is established as a limited purpose System institution under section 4.25 and that is not to be included in the combined financial statements of other System institutions, with respect to the payment of interest on the bank's obligations and the obligations of other banks incurred before January 1, 1985, in consideration of the payment of market interest rates on such obligations, plus a premium, or (B) for the period July 1, 1986, through December 31, 1988, capitalizing interest costs on obligations incurred before January 1, 1985, in excess of the estimated interest costs on an equivalent amount of Farm Credit System obligations at prevailing market rates on such obligations of similar maturities as of the date of the enactment of this subsection, or (C) taking other similar action; and (2) amortize, over a period of not to exceed 20 years, the capitalization of the premium, capitalization of interest expense, or like costs of any action taken under clause (1).".

SEC. 1035. DETERMINATION OF INTEREST RATES.

Loans.
State and local governments.

Section 4.17 of the Farm Credit Act of 1971 (12 U.S.C. 2205) is amended by striking out the first sentence and inserting in lieu thereof the following: "Interest rates on loans from institutions of the Farm Credit System shall not be subject to any interest rate limitation imposed by any State constitution or statute or other laws. Such limitation is preempted for purposes of this Act.".

SEC. 1036. TERMINATION OF FARM CREDIT ADMINISTRATION APPROVAL OF INTEREST RATES CHARGED ON DIRECT AND DISCOUNTED LOANS.

Section 5.17(a)(5)(A) of the Farm Credit Act of 1971 (12 U.S.C. 2252(a)(5)(A)) is amended by striking out "and on loans made or discounted by such institutions".

SEC. 1037. ACCOUNTING.

Reports.
Banks and banking.
Loans.
Supra.

Section 5.19(b) of the Farm Credit Act of 1971 (12 U.S.C. 2254(b)) is amended by striking out the second sentence and inserting in lieu thereof the following: "Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles, except with respect to any actions taken by any banks of the System under section 4.8(b), and contain such additional information as the Farm Credit Administration by regulation may require. Notwithstanding the provisions of the preceding sentence and any other provision of this Act, for the period July 1, 1986, through December 31, 1988, the institutions of the Farm Credit System may, on the prior approval of the Farm Credit Administration and subject to such conditions as it may establish, capitalize annually their provision for losses that is in excess of one-half of 1 percent of loans outstanding and amortize such capitalized amounts over a period not to exceed 20 years.".

100 STAT. 1879

TITLE II—BANKING AND HOUSING PROGRAMS

42 USC 1487 note.

SEC. 2001. SALE OF RURAL HOUSING LOANS.

42 USC 1471.

(a) Required Sales to Public.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,715,000,000 in fiscal year 1987 from the proceeds of such sales.

(b) Procedures and Terms of Sales.—

(1) Establishment of guidelines.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) Assistance by federal financing bank.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) REPORTS TO CONGRESS.—

(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal year 1987.

(2) REPORTS BY SECRETARY.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1987.

100 STAT. 1880

(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

Records.

(d) RELATION TO OTHER LAW.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

42 USC 1487.

SEC. 2002. SALE OF EXPORT-IMPORT BANK LOANS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 16. SALE OF BANK LOANS.

12 USC 635i-4.

"(a) REQUIRED SALES TO PUBLIC.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of not less than $1,500,000,000 in fiscal year 1987 from the proceeds of such sales.

"(b) PROCEDURES AND TERMS OF SALES.—

"(1) ESTABLISHMENT OF GUIDELINES.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) REPORTS TO CONGRESS.—

"(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal year 1987.

"(2) REPORTS BY BANK.—The Board of Directors shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1987.

"(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

Records.

"(d) SECURITIES LAWS NOT APPLICABLE TO SALES.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

Reports.

TITLE III—ENERGY AND ENVIRONMENTAL PROGRAMS

Subtitle A—Distribution of Petroleum Overcharge Funds

Petroleum Overcharge Distribution and Restitution Act of 1986.
15 USC 4501 note.

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the "Petroleum Overcharge Distribution and Restitution Act of 1986".

SEC. 3002. RESTITUTIONARY AMOUNTS COVERED. 15 USC 4501.

(a) IN GENERAL—This subtitle (other than section 3005)—

(1) specifies the procedure for the disbursement of funds collected, including interest thereon, by the Secretary or the courts pursuant to the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (and the regulations issued thereunder) as restitution for actual or alleged violations of such Acts or regulations; and

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15 USC 751 note; 12 USC 1904 note.

(2) subject to subsection (c), applies to—

(A) any amount of such funds held in escrow by the Secretary through accounts administered by the Secretary of the Treasury on or after the date of enactment of this Act; and

(B) any amount of such funds determined at any time, pursuant to judicial or administrative proceedings (including any settlement agreement or declaratory judgment) instituted by the Secretary to enforce such Acts and regulations, to be amounts paid for such actual or alleged violations, including any such amounts held in escrow by any court.

(b) SPECIAL RULE.—Amounts described in subsection (a)(2) and held in an escrow account by a court before the date of enactment of this Act may continue to be held by such court but shall be disbursed, together with any interest thereon, by the Secretary or, as appropriate, by the court only in accordance with the provisions of this subtitle.

(c) EXCLUSIONS.—Subsection (a)(2) does not apply to—

(1) any amount actually disbursed before the date of enactment of this Act to any person or class of persons pursuant to section 155 of Public Law 97-377 or any final judicial or administrative order or judgment (including any settlement agreement or declaratory judgment);

96 Stat. 1919.

(2) any amount to which any person or class of persons has an enforceable right, created or vested, or governed by the terms and conditions of the settlement approved on July 7, 1986, in In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, in the United States District Court for the District of Kansas; and

(3) any amount designated by judicial or administrative order or judgment (including any settlement agreement or declaratory judgment) for disbursement at any time to any specific person or class of persons—

(A) identified in such order or judgment as injured by the violation or alleged violation of the Acts described in subsection (a)(1) (including the regulations thereunder); or

(B) identified in such order or judgment issued before the date of enactment of this Act for indirect restitution.

(d) ESCROW ACCOUNTS.—Subject to subsections (b) and (c), the amounts covered by subsection (a) shall be held in appropriate escrow accounts administered for the Secretary by the Secretary of the Treasury.

(e) INTEREST.—Consistent with the disbursement requirements of this subtitle, the Secretary of the Treasury shall provide that amounts described in subsection (a) shall earn interest at the maximum rate earned on investments of Federal trust funds by the Secretary of the Treasury in short-term and long-term securities issued by the Federal Government (including minority bank investments).

Securities. Banks and banking.

SEC. 3003. IDENTIFICATION AND DISBURSEMENT OF RESTITUTIONARY AMOUNTS. 15 USC 4502.

(a) IN GENERAL.—(1) Subject to paragraph (2)—

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(A) all rulings, policies, or other statements (including any administrative order or settlement agreement) issued after the date of the enactment of this Act by any office, official, or employee of the Department of Energy; and

(B) all orders, including declaratory judgments, issued by any court after the date of the enactment of this Act,

shall be consistent with the provisions of this subtitle.

(2) Nothing in this section shall affect the settlement approved on July 7, 1986, in In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, in the United States District Court for the District of Kansas.

(b) Disbursement of Restitutionary Amounts as Direct Restitution to Injured Persons.—(1) The Secretary shall, through the Office of Hearings and Appeals of the Department of Energy, conduct proceedings expeditiously in accordance with subpart V regulations for the purpose of, to the maximum extent possible—

(A) identifying persons or classes of persons injured by any actual or alleged violation of the petroleum pricing and allocation regulations issued pursuant to the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970;

15 USC 751 note.
12 USC 1904 note.

(B) establishing the amount of any injury incurred by such persons; and

(C) making restitution, through the disbursement of amounts in the escrow accounts described in subsections (b) and (d) of section 3002, to such persons.

Reports.

(2) In conducting such proceedings, the Secretary shall take into consideration the reports released pursuant to several orders of the applicable Federal district court in In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, in the United States District Court for the District of Kansas.

Federal Register, publication.

(c) Determination of Excess Amount To Be Used for Indirect Restitution.—(1) Within 45 days after the date of the enactment of this Act in the case of fiscal year 1987, and within 45 days after the beginning of each fiscal year after fiscal year 1987, the Secretary shall, using the best information available to the Secretary, determine and publish (along with a justification thereof) in the Federal Register the amount held in the escrow accounts described in subsections (b) and (d) of section 3002 that is in excess of the amount that will be needed to make restitution to persons or classes of persons in accordance with subsection (b)(1) of this section and to meet other commitments of such accounts (including the requirements of section 155 of Public Law 97-377). In making such determination, the Secretary shall give primary consideration to assuring that at all times sufficient funds (including a reasonable reserve) are set aside for making such restitution and meeting such other commitments.

96 Stat. 1919.

Public information.

(2) The Secretary shall make public the information referred to in the first sentence of paragraph (1).

(d) Disbursement of Excess Amount as Indirect Restitution for Energy Conservation Programs.—(1) After the publication of the determination of an excess amount under subsection (c) for a fiscal year, the Secretary shall promptly provide for the disbursement of a portion or all of such excess amount for use in energy conservation programs. The amount so disbursed for a fiscal year shall be the smaller of—

(A) $200,000,000 minus the amount of Federal funds appropriated for energy conservation programs for such fiscal year; or

100 STAT. 1884

(B) the amount determined under subsection (c) to be the excess amount for such fiscal year.

(2) After determining the amount to be made available under paragraph (1), the Secretary shall apportion such amount among each of the energy conservation programs in a manner that will provide funding under this subtitle for the fiscal year concerned for each of such programs in the same proportionate amount that was provided for each of the programs by the Congress for fiscal year 1986. The Secretary shall then make available each amount apportioned for use under an energy conservation program in the same manner, to the same extent, under the same rulings and regulations, and for the same uses that Federal appropriated funds are made available and used under such program.

(3) The Secretary shall require that amounts made available under this subsection are used to supplement, and not supplant, funds otherwise available for energy conservation activities under Federal or State law. State and local governments.

SEC. 3004. DEPOSIT OF REMAINDER OF EXCESS AMOUNT INTO THE TREASURY AS INDIRECT RESTITUTION. 15 USC 4503.

The amount that remains from the excess amount described in section 3003(c) after all disbursements have been made for a fiscal year under section 3003(d) shall be deposited by the Secretary of the Treasury into the general fund of the Treasury.

SEC. 3005. STATUTE OF LIMITATION. 15 USC 4504.

(a) IN GENERAL.—(1) Except as provided in subsection (b), the commencement of a civil enforcement action shall be barred unless such action is commenced before the later of—

(A) September 30, 1988; or

(B) six years after the date of the violation upon which the action is based.

(2) For purposes of paragraph (1), the term "commencement of a civil enforcement action" means—

(A) the signing and issuance of a proposed remedial order against any person for filing with the Office of Hearings and Appeals of the Department of Energy; or

(B) the filing of a complaint with the appropriate district court of the United States.

(3) For purposes of this section, the term "civil enforcement action" means an administrative or judicial civil action by the Secretary under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970 (or the regulations issued thereunder) for the enforcement of any violation of such Acts or regulations. 15 USC 751 note. 12 USC 1904 note.

(b) EXCEPTIONS.—(1) In computing the periods established in subparagraphs (A) and (B) of subsection (a)(1), there shall be excluded any period—

(A) during which any person who is or may become the subject of a civil enforcement action is outside the United States, has absconded or concealed himself, or is not subject to legal process;

(B) during which facts material to the establishment and maintenance of a civil enforcement action could not be known;

(C) occurring before full compliance with any subpoena or special report order issued to any person under section 13 of the Federal Energy Administration Act of 1974, and such additional period (not to exceed 12 calendar months) after such compliance for the Secretary to consider the results thereof and commence a civil enforcement action; 15 USC 772.

(D) during the pendency of any relevant criminal action under the Acts or regulations described in subsection (a)(1) during which a civil enforcement action is held in abeyance as a result of prosecutorial discretion and with or without a stay, and such additional period (not to exceed 12 calendar months) after a final judicial order or dismissal of such criminal action to commence a civil enforcement action;

(E) before the issuance of an order that constitutes final agency action on a request for adjustment from any rule, regulation, or order under section 504 of the Department of Energy Organization Act, and such additional period (not to exceed 12 calendar months) to commence a civil enforcement action; or 42 USC 7194.

(F) of extension, to which the Secretary and the defendant have consented in writing, before the expiration of the time periods prescribed in subsection (a)(1).

(2) The provisions of subsection (a) shall not affect or apply to any civil enforcement action commenced before, on, or after the date of enactment of this Act and remanded by the Office of Hearings and

Appeals, the Federal Energy Regulatory Commission, or the court for further action of any kind.

(3) The provisions of subsection (a) shall not apply to any agency orders issued under the Acts or regulations described in subsection (a)(1) or to regulations issued under this Act, other than a proposed remedial order subject to this section.

(c) Expression of Intent.—(1) It is the intent of the Congress that—

(A) the Secretary and the Administrator of the Economic Regulatory Administration shall, to the greatest extent possible and within the time frames specified on September 12, 1986, by such Administrator to the Committee on Energy and Commerce of the House of Representatives, commence civil enforcement actions with respect to all cases known by such Administrator as of the date of the enactment of this Act and designated by such Administrator as "prelitigation cases", unless such an action is found not to be warranted;

(B) the Secretary and such Administrator not delay civil enforcement actions so as to cause the limitation in subsection (a)(1) to apply to any such case;

(C) any negotiations for the purpose of settlement of alleged violations not delay the commencement of a civil enforcement action; and

(D) the Department of Justice cooperate in ensuring that activities necessary, including the enforcement of subpoenas, to commence civil enforcement actions are carried out in a timely manner.

(2) Any failure to comply with the time frames described in paragraph (1)(A) shall not be considered for any purpose in any administrative or judicial proceeding subsequently commenced.

(d) End of Investigations and Audits.—Notwithstanding any other provision of law, the Secretary shall not initiate, after January 1, 1987, any audit or investigation of alleged civil violations of the Acts or regulations described in subsection (a)(1) for the purpose of commencement of any civil enforcement action. Nothing in this

subsection shall affect or apply to any audit or investigation conducted with respect to any civil enforcement action commenced (within the limitation established by subsection (a)(1)) before, on, or after the date of the enactment of this Act. Nothing in this subsection shall limit the authority of the Secretary to continue any audit or investigation initiated before January 1, 1987.

(e) Limitation on Review.—Any review of a final agency action determined under section 503 or 504 of the Department of Energy Organization Act may not be initiated in any court by any person subject to such action after—

42 USC 7193, 7194.

(1) 60 days after the effective date of that action; or

(2) 90 days after the date of the enactment of this Act, whichever occurs later.

(f) Oversight.—(1) In order to ensure the expeditious, effective, and efficient resolution of all civil enforcement actions (whether or not in administrative or judicial litigation) and all cases pending at the Office of Hearings and Appeals under subpart V regulations, the Secretary shall—

(A) maintain a personnel level for the compliance program of the Economic Regulatory Administration of 170 full-time equivalents for fiscal year 1987, subject to normal attrition and subject to the provisions of any appropriation Act enacted for such fiscal year concerning such program; and

(B) maintain for the remainder of the program an adequate mix of lawyers, auditors, technical, clerical, and administrative personnel.

(2) By July 1, 1987, and by July 1 of each year thereafter, the Administrator of the Economic Regulatory Administration shall provide to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Energy and Natural

Resources of the Senate the full-time equivalent level necessary for such compliance program for the next fiscal year and the basis for that level.

(3) The Secretary shall, in any fiscal year, provide a notice of at least 30 days to such Committees before initiating any reduction of force at the Economic Regulatory Administration. Such notice shall provide at least—

(A) the reasons for such reduction;

(B) the impact on the mix of personnel and on all cases, whether or not in litigation, including the subpart V regulation proceedings; and

(C) the expected costs and savings for the applicable fiscal year.

(4) The Administrator of the Economic Regulatory Administration shall keep such Committees fully and currently informed about the status (including delays, settlement negotiations, and other pertinent matters) of all enforcement cases (whether or not in litigation) and subpart V regulation proceedings.

SEC. 3006. REPORTS.

15 USC 4505.

(a) Report on Receipts and Disbursements.—The Secretary shall transmit, not later than 60 days after the date of the enactment of this Act, a report to the committees referred to in subsection (d) containing a clear and complete statement of all receipts, disbursements, and commitments of restitutionary amounts, as of such date of enactment, by the Secretary pursuant to—

(1) any judicial or administrative proceeding (including any settlement agreement or declaratory judgment) instituted at any time by the Secretary to enforce the crude oil and petroleum product pricing and allocation regulations issued under the Emergency Petroleum Allocation Act of 1973 or the Economic Stabilization Act of 1970; or

100 STAT. 1887

15 USC 751 note.
12 USC 1904 note.
96 Stat. 1919.
State and local governments.

(2) section 155 of Public Law 97-377.

(b) Report on Collection of Certain Deficiency Funds.—The Secretary shall transmit a report each fiscal year, beginning in fiscal year 1987, to such committees on the status of collections by the Secretary of deficiency funds to be deposited into the M.D.L. No. 378 escrow account established by the United States District Court for the District of Kansas until all such deficiency funds have been paid. The Secretary shall, in a manner substantially similar to that required by section 155 of Public Law 97-377 with respect to amounts disbursed under such section, monitor the disposition by the States of any funds disbursed to the States by the court pursuant to the opinion and order of such District Court, dated July 7, 1986, with respect to In Re: the Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378, including the use of such funds for administrative costs and attorneys fees.

(c) Report on Amount Estimated to be Available for Indirect Restitution.—The Secretary shall transmit, on March 1 of each year beginning with 1987 and continuing until all the restitutionary amounts to which section 3002(a) applies have been collected and disbursed as provided in this subtitle, a report to such committees containing an estimate of the amount that will be determined under section 3003(c) to be the excess amount for purposes of section 3003(d)(1)(B) for the fiscal year beginning the next October 1.

(d) Receipt by Committees.—The reports required by this subtitle shall be transmitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 3007. TERMINATION.

15 USC 4506.

(a) In General.—(1) Except as provided in subsection (b), the provisions of this subtitle (other than section 3005) shall terminate 90 days after the Secretary—

(A) determines that all of the restitutionary amounts to which section 3002(a) applies have been collected and disbursed as provided in this subtitle; and

(B) submits to Congress the final report required by section 3006.

Reports. —Federal Register, publication.

(2) Such final report shall include the determination (and the justification thereof) described in paragraph (1)(A). Such report shall also be published in the Federal Register.

(b) EXCEPTION.—The requirements of section 3003(d) shall continue to be applicable to the use of restitutionary amounts received under this subtitle as long as such funds remain available.

15 USC 4507.

SEC. 3008. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "subpart V regulations" means the provisions of Subpart V—Special Procedures for Distribution of Refunds (10 CFR 205.280-205.288) and any amendment made after the date of the enactment of this Act, and all precedents and decisions under such regulations, but only to the extent that such provisions, precedents, decisions, and amendments are consistent with the provisions of this subtitle.

(3) The term "energy conservation programs" means—

(A) the program under part A of the Energy Conservation and Existing Buildings Act of 1976 (42 U.S.C. 6861 and following);

(B) the programs under part D of title III of the Energy Policy and Conservation Act (relating to primary and supplemental State energy conservation programs; 42 U.S.C. 6321 and following);

(C) the program under part G of title III of the Energy Policy and Conservation Act (relating to energy conservation for schools and hospitals; 42 U.S.C. 6371 and following); and

(D) the program under the National Energy Extension Service Act (42 U.S.C. 7001 and following).

(4) The term "person" includes refiners, retailers, resellers, farmer cooperatives, transportation entities, public and private utilities, school districts, Federal, State, and local governmental entities, farmers, and other individuals and their successors.

(5) The term "State" means each of the several States, the District of Columbia, the commonwealth of Puerto Rico, and any territory or possession of the United States.

Subtitle B—Information and Study Requirements

SEC. 3101. MANUFACTURERS ENERGY CONSUMPTION SURVEY.

(a) IN GENERAL.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following new subsection:

Classified information.

"(i)(1) The Administrator shall conduct and publish the results of a survey of energy consumption in the manufacturing industries in the United States on at least a triennial basis and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information, including—

"(A) quantity of fuels consumed;

"(B) energy expenditures;

"(C) fuel switching capabilities; and

"(D) use of nonpurchased sources of energy, such as cogeneration and waste by-products.

"(2) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).".

(b) REPEAL.—Part E of title III of the Energy Policy and Conservation Act (42 U.S.C. 6341-6346) is hereby repealed.

SEC. 3102. CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE UNITED STATES.

Imports.

(a) IN GENERAL.—(1) The Secretary of Energy, acting with the Energy Information Administration, shall conduct a study of domestic crude oil production and petroleum refining capacity and the effects of imports thereon in order to assist the Congress and the President in determining whether such production and capacity are adequate to protect the national security.

(2) The study provided for by this section shall be carried out within available appropriations.

(b) PUBLIC COMMENT.—The Secretary shall provide notice and reasonable opportunity for public comment with respect to conducting the study carried out under this section.

(c) REPORTING DATE.—The Secretary shall, within 120 days of the date of the enactment of this Act, transmit to the Congress and the President a copy of the findings and conclusions of the study carried out under this section. Such findings and conclusions shall be referred to the Committee on Energy and Natural Resources of the Senate and appropriate authorization committees of the House of Representatives.

President of U.S.
Defense and national security.

(d) ACTION BY THE PRESIDENT.—The President shall, within 45 days after the date on which such report is transmitted to him, report his views concerning the levels at which imports of crude oil and refined petroleum products become a threat to the national security and advise the Congress concerning his views of the legislative or administrative action, or both, that will be required to prevent imports of crude oil and refined petroleum products from exceeding those import levels that threaten our national security.

Subtitle C—Strategic Petroleum Reserve

SEC. 3201. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1987, 1988, AND 1989.

(a) IN GENERAL.—The following amounts are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the Strategic Petroleum Reserve to carry out part B of title I of the Energy Policy and Conservation Act for the acquisition, transportation, and injection of petroleum products, as defined for purposes of such part B, for the Reserve and for any drawdown and distribution of the Reserve:

42 USC 7270.
42 USC 6231.

(1) For fiscal year 1987, $200,000,000.
(2) For fiscal year 1988, $291,000,000.
(3) For fiscal year 1989, $479,000,000.

(b) EFFECT ON OTHER AUTHORIZATIONS.—The authorization made by subsection (a) is in lieu of any other authorization of appropriation for fiscal years 1987, 1988, and 1989 for the expenses described in such subsection.

SEC. 3202. FILL RATE OF THE RESERVE; LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.

(a) FILL RATE OF THE RESERVE.—Section 160(c)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)(3)) is amended—

Ante, p. 141.

(1) by striking out "fiscal year 1986 and continuing through fiscal years 1987 and 1988" and inserting in lieu thereof "fiscal year 1987 and continuing through fiscal years 1988 and 1989";

(2) by striking out "527,000,000 barrels" and inserting in lieu thereof "750,000,000 barrels"; and

(3) by striking out "at a level" and all that follows through the period and inserting in lieu thereof "at the highest practicable fill rate achievable, subject to the availability of appropriated funds."

Ante, p. 142.

(b) LIMITATION ON UNITED STATES SHARE OF THE NAVAL PETROLEUM RESERVE.—Section 160(d)(1) of such Act (42 U.S.C. 6240(d)(1)) is amended—

(1) in subparagraph (A), by striking out "527,000,000 barrels" and inserting in lieu thereof "750,000,000 barrels";

(2) in subparagraph (B)—

(A) by striking out "100,000 barrels" and inserting in lieu thereof "75,000 barrels"; and

(B) by striking out "; or" and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

SEC. 3203. INFORMATION TO BE CONTAINED IN ANNUAL REPORT ON SPR.

Section 165(a) of the Energy Policy and Conservation Act (42 U.S.C. 6245(a)) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) an estimate of the final capacity of the Reserve and the scheduled annual fill rate for achieving such capacity;

"(B) the scheduled quarterly fill rate for the 12-month period beginning on the date on which such report is transmitted;

"(C) the type and quality of crude oil to be acquired for the Reserve pursuant to the schedule described in subparagraph (A);

"(D) the schedule of construction of any facilities needed to achieve the final capacity of the Reserve, including a description of the type and location of such facilities and of enhancements and improvements to existing facilities;

"(E) an estimate of the cost of acquiring crude oil and constructing facilities necessary to complete the Reserve;

"(F) a description of the current distribution plan for using the Reserve, including the method of drawdown and distribution to be utilized; and

"(G) an explanation of any changes made in the matters described in subparagraphs (A) through (F) since the transmittal of the previous report under this subsection;".

Subtitle D—Federal Energy Management

SEC. 3301. FEDERAL ENERGY MANAGEMENT.

Section 545(a)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8255(a)(2)) is amended by striking out "marginal" and inserting in lieu thereof "average".

Subtitle E—Fees and Charges

42 USC 7178.

SEC. 3401. FEDERAL ENERGY REGULATORY COMMISSION FEES AND ANNUAL CHARGES.

(a) IN GENERAL.—(1) Except as provided in paragraph (2) and beginning in fiscal year 1987 and in each fiscal year thereafter, the Federal Energy Regulatory Commission shall, using the provisions of this subtitle and authority provided by other laws, assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.

(2) The provisions of this subtitle shall not affect the authority, requirements, exceptions, or limitations in sections 10(e) and 30(e) of the Federal Power Act.

16 USC 803, 791.

(b) BASIS FOR ASSESSMENTS.—The fees or annual charges assessed shall be computed on the basis of methods that the Commission determines, by rule, to be fair and equitable.

(c) ESTIMATES.—The Commission may assess fees and charges under this section by making estimates based on data available to the Commission at the time of assessment.

(d) TIME OF PAYMENT.—The Commission shall provide that the fees and charges assessed under this section shall be paid by the end of the fiscal year for which they were assessed.

(e) ADJUSTMENTS.—The Commission shall, after the completion of a fiscal year, make such adjustments in the assessments for such fiscal year as may be necessary to eliminate any overrecovery or underrecovery of its total costs, and any overcharging or undercharging of any person.

(f) USE OF FUNDS.—All moneys received under this section shall be credited to the general fund of the Treasury.

(g) WAIVER.—The Commission may waive all or part of any fee or annual charge assessed under this section for good cause shown.

Subtitle F—Environmental Programs

SEC. 3501. ABANDONED MINE RECLAMATION RESEARCH AND DEVELOPMENT.

30 USC 1231 note.

After the enactment of this Act, the research and demonstration authorities of the Department of the Interior under the provisions of section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) shall be transferred to, and carried out by, the Director of the Bureau of Mines. Research and demonstration projects under such provision shall be selected by a panel appointed by the Director of the Bureau of Mines to be comprised of 9 persons, including 4 representatives of State abandoned mine reclamation programs, 4 representatives of the Bureau of Mines, and one representative of the Office of Surface Mining Reclamation and Enforcement. 30 USC 1231.

SEC. 3502. GREAT SWAMP NATIONAL WILDLIFE REFUGE.

Reports.

(a) No later than 60 days after the enactment of this section, the United States Environmental Protection Agency shall provide the House Committee on Merchant Marine and Fisheries and the Senate Committees on Environment and Public Works and Energy and Natural Resources with an interim status report on the implementation of agency responsibilities for conducting or approving preliminary assessments, site investigations and, if necessary, Remedial Investigation/Feasibility Studies for contaminant problems on the Great Swamp National Wildlife Refuge, as set forth in the July 9, 1985, Interagency Memorandum of Agreement between the United States Environmental Protection Agency, the United States Fish and Wildlife Service, and the National Park Service. This report shall describe in a systematic and comprehensive way the clean-up plan developed to date and the progress made thereunder, including the identification of responsible parties where possible, for the Rolling Knoll landfill, the Harding landfill, and all asbestos dumpsites identified within the Great Swamp National Wildlife Refuge. The report shall also discuss the appointment of appropriate field personnel to direct the clean-up effort; an assessment and ranking of the contaminant threats to the Refuge based upon information available to date; and a detailed work plan and schedule for completing site investigation work, including the analysis of samples collected during site investigations, and initiating Remedial Investigation/Feasibility Studies where necessary.

100 STAT. 1892

Reports.

(b) Not later than 240 days after the enactment of this section, the United States Environmental Protection Agency shall provide the committees of Congress set forth in subsection (a) of this section with an update of its interim status report. This update shall address the same factors included in the original interim report and shall identify what progress has been made in implementing the site investigation, data analysis, and remedial clean-up responsibilities set forth in the interim report.

Reports.

(c) The development of the interim and updated reports required in subsections (a) and (b) of this section shall be carried out with unobligated funds available to the United States Environmental Protection Agency.

TITLE IV—TRANSPORTATION AND RELATED PROGRAMS

Conrail Privatization Act.

Subtitle A—Rail Related Issues

PART 1—GENERAL PROVISIONS

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS OF SUBTITLE.

(a) SHORT TITLE.—This subtitle may be cited as the "Conrail Privatization Act".

(b) TABLE OF CONTENTS OF SUBTITLE.—

PART 1—GENERAL PROVISIONS

Sec. 4001. Short title; table of contents of subtitle.
Sec. 4002. Findings.
Sec. 4003. Purposes.
Sec. 4004. Definitions.

PART 2—CONRAIL

SUBPART A—SALE OF CONRAIL

Sec. 4011. Preparation for public offering.
Sec. 4012. Public offering.
Sec. 4013. Fees.

SUBPART B—OTHER MATTERS RELATING TO THE SALE

Sec. 4021. Rail service obligations.
Sec. 4022. Ownership limitations.
Sec. 4023. Board of Directors.
Sec. 4024. Provisions for employees.
Sec. 4025. Certain enforcement relief.

SUBPART C—MISCELLANEOUS TECHNICAL AND CONFORMING AMENDMENTS AND REPEALS

Sec. 4031. Abolition of United States Railway Association.
Sec. 4032. Applicability of Regional Rail Reorganization Act of 1973 to Conrail after sale.
Sec. 4033. Miscellaneous amendments and repeals.
Sec. 4034. Exemption from liability.
Sec. 4035. Charter amendment.
Sec. 4036. Status of Conrail after sale.
Sec. 4037. Effect on contracts.
Sec. 4038. Resolution of certain issues.

PART 3—PROMOTION OF RAIL COMPETITION

Sec. 4051. Agriculture contract disclosure.
Sec. 4052. Boxcar provision.

45 USC 1301.

SEC. 4002. FINDINGS.

The Congress finds that—

(1) the bankruptcy of the Penn Central and other railroads in the Northeast and Midwest resulted in a transportation emergency which required the intervention of the Federal Government;

(2) the United States Government created the Consolidated Rail Corporation, which provides essential rail service to the Northeast and Midwest;

(3) the future of rail service in the Northeast and Midwest is essential and must be protected through rail service obligations, consistent with the transfer of the Corporation to the private sector;

(4) the Northeast Rail Service Act of 1981 has achieved its purpose in allowing the Corporation to become financially self-sustaining; 45 USC 1101 note.

(5) the Federal Government has invested over $7,000,000,000 in providing rail service to the Northeast and Midwest;

(6) the Government, as a result of its ownership and investment of taxpayer dollars in the Corporation, controls substantial assets, including cash of approximately $1,000,000,000;

(7) the Corporation's viability and sound performance allow it to be sold to the American public for a substantial sum through a public offering;

(8) a public offering of the Corporation's stock will preserve competitive rail service in the region, provide a reasonable return to the Government, and protect employment;

(9) the Corporation's employees contributed significantly to the turnaround in the Corporation's financial performance and they should share in the Corporation's success through a settlement of their claims for reimbursement for wages below industry standard, and a share in the common equity of the Corporation;

(10) the requirements of section 401(e) of the Regional Rail Reorganization Act of 1973 are met by this subtitle; and 45 USC 761.

(11) the Secretary of Transportation has discharged the responsibilities of the Department of Transportation under the Northeast Rail Service Act of 1981 with respect to the sale of the Corporation as a single entity.

SEC. 4003. PURPOSES.

45 USC 1302.

The purposes of this subtitle are to transfer the interest of the United States in the common stock of the Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of its rail service in the Northeast and Midwest, provides for the protection of the public interest in a sound rail transportation system, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

100 STAT. 1894

SEC. 4004. DEFINITIONS.

45 USC 1303.

For the purposes of this subtitle—

(1) the term "capital expenditures" means amounts expended by the Corporation and its subsidiaries for replacement or rehabilitation of, or enhancements to, the railroad plant, property, trackage, and equipment of the Corporation and its subsidiaries, as determined in accordance with generally accepted accounting principles, and in interpreting generally accepted accounting principles, no amount spent on normal repair, maintenance, and upkeep of such railroad plant, property, trackage, and equipment in the ordinary course of business shall constitute capital expenditures;

(2) the term "Commission" means the Interstate Commerce Commission;

(3) the term "consolidated funded debt" means the aggregate, after eliminating intercompany items, of all funded debt of the Corporation and its consolidated subsidiaries, consolidated in accordance with generally accepted accounting principles;

(4) the term "consolidated tangible net worth" means the market value of the common equity of the Corporation as of the sale date, plus or minus the change from the sale date to the date of measurement in the excess, after making appropriate deductions for any minority interest in the net worth of subsidiaries, of—

(A) the assets of the Corporation and its subsidiaries (excluding intercompany items) which, in accordance with generally accepted accounting principles, are tangible assets, after deducting adequate reserves in each case where, in accordance with generally accepted accounting principles, a reserve is proper, over

(B) all liabilities of the Corporation and its subsidiaries (excluding intercompany items),

taking into account inventory and securities on the basis of the cost or current market value, whichever is lower, and not taking into account patents, trademarks, trade names, copyrights, licenses, goodwill, treasury stock, or any write-up in the book value of any assets;

(5) the term "Corporation" means the Consolidated Rail Corporation;

(6) the term "cumulative net income" means, for any period, the net income of the Corporation and its consolidated subsidiaries as determined in accordance with generally accepted accounting principles, before provision for expenses (net of income tax effect) related to—

(A) amounts paid by the Corporation under section 4024(e), and comparable payments made to present and former employees of the Corporation not covered by such section; and

(B) the aggregate value of any shares and cash distributed by the Corporation under section 4024(f);

(7) the term "debt" means (A) indebtedness, whether or not represented by bonds, debentures, notes, or other securities, for the repayment of money borrowed, (B) deferred indebtedness for the payment of the purchase price of property or assets purchased, (C) guarantees, endorsements, assumptions, and other contingent obligations in respect of, or to purchase or to otherwise acquire, indebtedness of others, and (D) indebtedness secured by any mortgage, pledge, or lien existing on property owned, subject to such mortgage, pledge, or lien, whether or not indebtedness secured thereby shall have been assumed;

(8) the term "funded debt" means all debt created, assumed, or guaranteed, directly or indirectly, by the Corporation and its subsidiaries which matures by its terms, or is renewable at the option of the Corporation or any such subsidiary to a date, more than 1 year after the date of the original creation, assumption, or guarantee of such debt by the Corporation or such subsidiary;

(9) the term "liabilities" means all items of indebtedness or liability which, in accordance with generally accepted accounting principles, would be included in determining total liabilities as shown on the liabilities side of a balance sheet as at the date as of which liabilities are to be determined;

(10) the term "person" means an individual, corporation, partnership, association, trust, or other entity or organization, including a government or political subdivision thereof or a governmental body;

(11) the term "preferred stock" means any class or series of preferred stock, and any class or series of common stock having liquidation and dividend rights and preferences superior to the common stock of the Corporation offered for sale under section 4012;

(12) the term "public offering" means an underwritten offering to the public of such common stock of the Corporation as the Secretary of Transportation determines to sell under section 4012;

(13) the term "sale date" means the date on which the initial public offering is closed;

(14) the term "subsidiary" means any corporation more than 50 percent of whose outstanding voting securities are directly or indirectly owned by the Corporation; and

(15) the term "United States share" means a share of common stock of the Corporation held by the United States Government on the date of the enactment of this Act or as a result of any split required pursuant to section 4012(d).

PART 2—CONRAIL

Subpart A—Sale of Conrail

SEC. 4011. PREPARATION FOR PUBLIC OFFERING.

Securities.
Banks and banking.
45 USC 1311.

(a) PUBLIC OFFERING MANAGERS.—(1) Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Treasury and the Chairman of the Board of Directors of the Corporation, shall retain the services of investment banking firms to serve jointly and be compensated equally as co-lead managers of the public offering (hereafter in this subpart referred to as the "co-lead managers") and to establish a syndicate to underwrite the public offering. The total number of co-lead managers shall be no fewer than 4 nor greater than 6. The Secretary shall designate one co-lead manager to coordinate and administer the public offering.

(2) In selecting the investment banking firms to serve as co-lead managers of the public offering under paragraph (1), consideration shall be given to the firm's institutional and retail distribution capabilities, financial strength, knowledge of the railroad industry, experience in large scale public offerings, research capability, and reputation. In addition, recognition shall also be given to contributions made by particular investment banking firms before the date of the enactment of this Act in demonstrating and promoting the long-term financial viability of the Corporation.

100 STAT. 1896

(b) PAYMENT TO THE UNITED STATES.—(1) Not later than 30 days after the date of the enactment of this Act, the Corporation shall transfer to the Secretary of the Treasury $200,000,000.

(2) On or before February 1, 1987, or 30 days before the sale date, whichever occurs first, the Secretary of Transportation shall determine whether to require the Corporation to transfer to the Secretary of the Treasury, in addition to amounts transferred under paragraph (1), not to exceed $100,000,000, taking into account the viability of the Corporation. The Corporation shall transfer such funds as are required to be transferred under this paragraph.

(c) REGISTRATION STATEMENT.—The Corporation shall prepare and cause to be filed with the Securities and Exchange Commission a registration statement with respect to the securities to be offered and sold in accordance with the securities laws and the rules and regulations thereunder in connection with the initial and any subsequent public offering.

(d) LIMIT ON AUTHORITY TO PURCHASE STOCK.—Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to purchase debentures or series A preferred stock of the Corporation shall terminate upon the date of the enactment of the Conrail Privatization Act.".

SEC. 4012. PUBLIC OFFERING.

Securities.
45 USC 1312.

(a) STRUCTURE OF PUBLIC OFFERING.—(1) After the registration statement referred to in section 4011(c) is declared effective by the Securities and Exchange Commission, the Secretary of Transportation, in consultation with the Secretary of the Treasury, the Chairman of the Board of Directors of the Corporation, and the co-lead managers, shall offer the United States shares for sale in a public offering, except as provided in paragraphs (2) and (3).

(2) The Secretary of Transportation, after such consultation, may elect to offer less than all of the United States shares for sale at the time of the initial sale.

(3) Under no circumstances shall the Secretary of Transportation offer any of the United States shares for sale unless, before the sale date, the Secretary determines, after such consultation, that the estimated sum of the gross proceeds from the sale of all the United States shares will be an adequate amount. A determination by the Secretary under this paragraph shall not be reviewable.

(4) In making a determination under paragraph (3), the Secretary shall have the goal of obtaining at least $2,000,000,000 in aggregate gross proceeds for the United States from the public offering and any payments made under section 4011(b).

(b) SUBSEQUENT SALES.—If the Secretary of Transportation elects to offer for sale less than all the United States shares, the Secretary shall sell the remaining United States shares in subsequent public offerings.

(c) CONSENT OF THE CORPORATION NOT REQUIRED.—Any public offering under this section may be made without the consent of the Corporation.

(d) AUTHORITY TO REQUIRE STOCK SPLITS.—(1) The Secretary of Transportation, in consultation with the co-lead managers and the Chairman of the Board of Directors of the Corporation, may, in connection with the initial public offering described in subsection (a), before the filing of the registration statement referred to in section 4011(c), require the Corporation to declare a stock split or reverse stock split.

(2) The Corporation shall take such action as may be necessary to comply with the Secretary's requirements under this subsection.

(e) CANCELLATION OF OTHER SECURITIES HELD BY THE UNITED STATES.—(1) In consideration for amounts transferred to the United States under section 4011(b), the Secretary of Transportation shall, concurrent with the initial public offering described in subsection (a), deliver to the Corporation all preferred stock, 7.5 percent debentures, and contingent interest notes of the Corporation. The Corporation shall immediately cancel such debentures, preferred stock, and contingent interest notes, and any interest of the United States in such debentures, preferred stock, and contingent interest notes shall be thereby extinguished.

(2) For purposes of regulation by the Commission and State public utility regulation, the actions authorized by this subsection, the public offering, and the value of the consideration received therefor shall not change the value of the Corporation's assets net of depreciation and shall not be used to alter the calculation of the Corporation's stock or asset values, rate base, expenses, costs, returns, profits, or revenues, or otherwise affect or be the basis for a change in the regulation of any railroad service, rate, or practice provided or established by the Corporation, or any change in the financial reporting practice of the Corporation.

(f) MINORITY INVESTMENT BANKING FIRMS.—The Secretary of Transportation shall ensure that minority owned or controlled investment banking firms shall have an opportunity to participate to a significant degree in any public offering under this part.

(g) INVESTMENT BANKING FIRM REQUIREMENTS.—(1) The level of any investment banking firm's participation in the public offering shall be consistent with that firm's financial capabilities.

(2) No investment banking firm which was not in existence on September 1, 1986, shall participate in the public offering.

Records.
Reports.

(h) GENERAL ACCOUNTING OFFICE AUTHORITY TO CONDUCT AUDITS.—The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and the co-lead managers associated with the public offering. The co-lead managers shall agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

45 USC 1313.

SEC. 4013. FEES.

(a) INVESTMENT BANKING FIRM FEES.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall agree to pay to investment banking firms and other persons participating with such firms in the public offering the absolute minimum amount in fees necessary to carry out the public offering.

(b) Costs of the Public Offering.—All costs of the public offering payable by the Secretary of Transportation shall be paid from the proceeds of the public offering.

Subpart B—Other Matters Relating to the Sale

SEC. 4021. RAIL SERVICE OBLIGATIONS. 45 USC 1321.

(a) Obligations of the Corporation.—During a period of 5 years beginning on the date of the enactment of this Act, the following obligations shall apply to the Corporation:

(1) The Corporation shall spend in each fiscal year the greater of (A) an amount equal to the Corporation's depreciation for financial reporting purposes for such year or (B) $500,000,000, in capital expenditures. With respect to any fiscal year, the Corporation's Board of Directors may reduce the required capital expenditures for such year to an amount which the Board determines is justified by prudent business and engineering practices, except that the Corporation's capital expenditures shall not be less than $350,000,000 for its first fiscal year beginning after the sale date, a total of $700,000,000 for its first two fiscal years beginning after the sale date, a total of $1,050,000,000 for its first three fiscal years beginning after the sale date, a total of $1,400,000,000 for its first four fiscal years beginning after the sale date, and a total of $1,750,000,000 for its first five fiscal years beginning after the sale date.

(2)(A) Unless the Corporation is in compliance with the requirements of subparagraph (B), no common stock dividend or preferred stock dividend may be declared or paid by the Corporation.

(B)(i) The Corporation shall have been in compliance with the requirements of paragraph (1) as of the end of the fiscal year immediately preceding the fiscal year in which such dividend payment is made.

(ii) After payment of any common stock dividend, the Corporation shall have on hand cash or cash equivalents of $400,000,000. Such amount may include amounts borrowed by the Corporation only to the extent that the consolidated funded debt of the Corporation does not exceed 175 percent of the consolidated tangible net worth of the Corporation.

(iii) After payment of any common stock dividend, the cumulative amount of all common stock dividends paid between the sale date and the date of payment of such dividend shall not exceed 45 percent of—

(I) the cumulative net income of the Corporation as reflected in the quarterly financial statements of the Corporation, for the period beginning after the end of the last fiscal quarter of the Corporation ending before the sale date, and ending at the end of the last fiscal quarter of the Corporation ending before the date of the declaration of such dividend, less

(II) the cumulative amount of any preferred stock dividends declared and paid between the sale date and the date of payment of such common stock dividend.

(C) For purposes of this paragraph—

(i) the term "common stock dividend" means—

(I) the declaration or payment by the Corporation of any dividends in cash, property, or other assets with respect to any shares of the common stock of the Corporation (other than dividends payable solely in shares of the common stock of the Corporation);

(II) the application of any of the property or assets of the Corporation to the purchase, redemption, or other acquisition or retirement of any shares of the common stock of the Corporation;

(III) the setting apart of any sum for the purchase, redemption, or other acquisition or retirement of any shares of the common stock of the Corporation; and

(IV) the making of any other distribution, by reduction of capital or otherwise, with respect to any shares of the common stock of the Corporation,

except that the merger of ConRail Equity Corporation into the Corporation shall not constitute a common stock dividend; and

(ii) the term "preferred stock dividend" means—

(I) the declaration or payment by the Corporation of any dividends in cash, property, or other assets with respect to any shares of the preferred stock of the Corporation;

(II) the application of any of the property or assets of the Corporation to the purchase, redemption, or other acquisition or retirement of any shares of the preferred stock of the Corporation;

(III) the setting apart of any sum for the purchase, redemption, or other acquisition or retirement of any shares of the preferred stock of the Corporation; and

(IV) the making of any other distribution, by reduction of capital or otherwise, with respect to any shares of the preferred stock of the Corporation.

Minorities.

(3) The Corporation shall continue its affirmative action program and its minority vendor program, substantially as such programs were being conducted by the Corporation as of February 8, 1985, subject to any provisions of applicable law.

(4) The Corporation shall not permit to occur any transaction or series of transactions (other than in the ordinary course of business of the Corporation and its subsidiaries) whereby all or any substantial part of the railroad assets and business of the Corporation and its subsidiaries taken as a whole are sold, leased, transferred, or otherwise disposed of to any corporation or entity other than to a wholly owned subsidiary of the Corporation.

(5) The Corporation shall offer any line for which an abandonment certificate is issued by the Commission to a purchaser who agrees to provide interconnecting rail service. Such offer shall last for the 120-day period following the date of issuance of the abandonment certificate and the price for such abandoned line shall be equal to 75 percent of net liquidation value as determined by the Commission, pursuant to regulations that had been issued under section 308 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 748).

(6) The Corporation and its subsidiaries shall maintain, preserve, protect, and keep their respective properties in good repair, working order, and condition, and shall not permit deferral of normal and prudent maintenance necessary to provide and maintain rail service.

(b) COMPLIANCE CERTIFICATES.—(1) Within 90 days after the close of each of its fiscal years, or at the time its financial statements have been audited, whichever occurs later, the Corporation shall deliver to the Secretary of Transportation a certificate executed by an executive officer of the Corporation. Such certificate shall certify that, as of such date, the Corporation is in compliance with all requirements (other than the requirement regarding a common stock dividend or a preferred stock dividend) set forth in this section. Such certificate shall include audited consolidated financial statements.

(2) Within 5 days after the declaration of any common stock dividend or preferred stock dividend, the Corporation shall deliver to the Secretary of Transportation a certificate executed by an executive officer of the Corporation. Such certificate shall certify that, after giving effect to any such dividend, the Corporation shall

be in compliance with any requirement regarding a common stock dividend or a preferred stock dividend set forth in this section. Such certificate shall include—

(A) quarterly financial statements; and

(B) a report of the Corporation's total capital expenditures, for the period with respect to which the dividend has been declared, and the fiscal year to date, and shall compare such capital expenditures to the budgeted capital expenditures and to the capital expenditures during the comparable periods of the previous fiscal year.

Reports.

SEC. 4022. OWNERSHIP LIMITATIONS.

Securities.
45 USC 1322.

(a) GENERAL.—(1) During a period of 3 years beginning on the sale date, no person, directly or indirectly, may acquire or hold securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation.

(2) This subsection shall not apply—

(A) to the employee stock ownership plan (or successor plans) of the Corporation,

(B) to the Secretary of Transportation,

(C) to a railroad as described under subsection (b),

(D) to underwriting syndicates holding shares for resale, or

(E) in the case of shares beneficially held for others, to commercial banks, broker-dealers, clearing corporations, or other nominees.

Banks and banking.

(b) RAILROADS.—(1) During a period of 1 year beginning on the sale date, no railroad may purchase or hold, directly or indirectly, more than 10 percent of any class of stock of the Corporation. During such period, no railroad may file an application with the Commission for a merger or consolidation with the Corporation or the acquisition of control of the Corporation under section 11344 of title 49, United States Code.

(2) During a period of 3 years beginning on the sale date, any railroad which purchases or holds any stock of the Corporation shall vote such stock in the same proportion as all other common stock of the Corporation is voted. After the expiration of 1 year after the sale date, the preceding sentence shall not apply to any railroad with respect to which the Commission has approved an application for a merger or consolidation with the Corporation or the acquisition of control of the Corporation under section 11344 of title 49, United States Code.

(3) As used in this subsection, the term "railroad" means a class I railroad as determined by the Commission under the definition in effect on the date of the enactment of this Act, and includes any entity controlling, controlled by, or under common control with any railroad (other than the Corporation or its subsidiaries).

SEC. 4023. BOARD OF DIRECTORS.

45 USC 1323.

The Board of Directors of the Corporation shall be comprised as follows:

(1) Except as provided in paragraph (3), with respect to the period ending June 30, 1987, the board shall remain as it exists on the date of the enactment of this Act, with any vacancies being filled by directors nominated and elected by the remainder of the members of the board.

(2)(A) Except as provided in paragraph (3), with respect to the period beginning July 1, 1987, the board shall consist of—

(i) 3 directors appointed by the Secretary of Transportation;

(ii) the Chief Executive Officer and the Chief Operating Officer of the Corporation; and

(iii) 8 directors appointed from among persons knowledgeable in business affairs by the special court trustees named under subparagraph (C), in consultation with the Secretary of Transportation and the Chairman of the Board of Directors of the Corporation, and recognizing the need for and importance of—

(I) continuity in the direction of the Corporation's business and affairs;

(II) preserving the value of the investment of the United States in the Corporation;

(III) preserving essential rail service provided by the Corporation; and

(IV) providing for the sale of the United States shares.

(B) The Secretary of Transportation and the special court trustees may appoint directors under subparagraph (A) from among existing directors of the Corporation.

(C)(i) If more than 50 percent of the interest of the United States in the Corporation has not been sold before June 1, 1987, the special court established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719) shall, on that date, name 3 trustees from among persons knowledgeable in business affairs to make the appointments required by subparagraph (A)(iii). The Corporation shall compensate the special court trustees in an amount to be specified by the special court, not to exceed the amount paid by the Corporation to its directors for comparable services.

(ii) No person shall be eligible to be appointed as a special court trustee under this subparagraph who, at any time during the 30 months immediately preceding such appointment, was an officer, employee, or director of the United States Railway Association, the Corporation, or the Department of Transportation.

100 STAT. 1902

(3)(A) After the sale date, one director shall be elected by the public shareholders of the Corporation for each increment of 12.5 percent of the interest of the United States in the Corporation that has been sold through public offering.

(B) With respect to the period ending June 30, 1987—

(i) the first director elected under this paragraph shall replace the member of the board who became a director most recently from among—

(I) ~~directors~~ appointed by the United States Railway Association, or elected under paragraph (1) to replace such a director, and

(II) directors appointed by the Secretary of Transportation, or elected under paragraph (1) to replace such a director;

(ii) the second director elected under this paragraph shall replace the member of the Board who became a director most recently from among directors described in clause (i)(I) or (II), whichever group the first director replaced under this subparagraph was not a member of; and

(iii) subsequent directors elected under this paragraph shall replace members alternately from the groups described in clause (i)(I) and (II).

(C) With respect to the period beginning July 1, 1987, directors elected under this paragraph shall replace directors appointed by the special court trustees under paragraph (2)(A)(iii), in the order designated by the special court trustees in a list to be issued at the time of such original appointments.

(D) With respect to the period beginning on the first date more than 50 percent of the interest of the United States in the Corporation has been sold through public offering and ending when 100 percent of such interest has been sold—

(i) all remaining members of the board referred to in paragraph (2)(A)(iii), and

(ii) with respect to the period ending June 30, 1987, all remaining members of the board, except 3 members appointed by the Secretary of Transportation and the Chief

Executive Officer and the Chief Operating Officer of the Corporation,

shall be replaced by directors elected by the public shareholders of the Corporation.

(E) After 100 percent of the interest of the United States in the Corporation has been sold, any remaining directors appointed by the Secretary of Transportation, the United States Railway Association, or the special court trustees referred to under paragraph (2)(A)(iii), shall be replaced by directors elected by the public shareholders of the Corporation.

(F) Nothing in this paragraph shall be construed to prohibit any director referred to in this section from being elected as a director by the public shareholders of the Corporation.

(4)(A) No director appointed or elected under this section shall be a special court trustee or an employee of the United States, except as elected by the public shareholders of the Corporation.

(B) No director appointed or elected under this section shall be an employee of the Corporation, except as provided in paragraph (2)(A)(ii) or as elected by the public shareholders of the Corporation.

SEC. 4024. PROVISIONS FOR EMPLOYEES.

(a) TRANSITIONAL EMPLOYEE PROTECTION.—Section 701(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797(d)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law—

"(A) upon exhaustion of appropriated funds available for payment of benefits or expenses of administration of the Railroad Retirement Board (hereafter in this section referred to as the 'Board') under this section, or on the expiration of 60 days after the date of enactment of the Conrail Privatization Act, whichever first occurs, the United States shall have no further liability under this section, but the Corporation shall—

"(i) as agent for the Board, pay benefits under this section, without reimbursement, in such amounts and to such eligible employees as the Board shall designate, subject to the limitations prescribed in the benefit schedules issued under subsection (a); and

"(ii) on a periodic basis determined by the Board, advance to the Board its necessary expenses of administration, including expenses reasonably required for close-out of the program of labor protection under this section and for technical transition to the program of labor protection required by the Conrail Privatization Act, which advances shall be made without reimbursement.

"(B) The Corporation shall promptly honor the Board's requests for advances under this paragraph as due and payable liquidated debts, subject to later adjustment after audit by the Inspector General of the Board. The Board is authorized to receive and apply Corporation funds advanced under this paragraph for administration of this section and to refund to the Corporation any excess administrative funds advanced by the Corporation.

"(C) The Corporation shall be deemed subrogated to the right of the Board to recover any benefit paid by the Corporation as agent for the Board that was improvidently paid under this paragraph, and the Board shall cooperate with the Corporation in its effort to recover any such payment; but the Corporation shall have no claim against the Board for such payment, and the Board shall not be made a real party in interest to any lawsuit or to any proceeding with respect to recovery of such payment.

"(D) Benefits provided by the Corporation, as agent for the Board, shall, for purposes of this title, be deemed to have been made available under section 713 of this title.". 45 USC 797*l*.

(b) Dispute Resolution.—Section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797) is further amended by adding at the end thereof a new subsection as follows:

"(e) Dispute Resolution.—Any dispute or controversy regarding eligibility for benefits under this section shall be determined under such procedures as the Board may by regulation prescribe. Subject to administrative reconsideration by the Board under its own procedures, findings of fact and conclusions of law of the Board in determination of any claim for such benefits shall, in the absence of fraud or an action exceeding the Board's jurisdiction, be binding and conclusive for all purposes and shall not be subject to review in any manner. For purposes of administration of this section, the administrative powers and penalties set forth in sections 9 and 12 of the Railroad Unemployment Insurance Act shall apply as if incorporated herein.".

100 STAT. 1904

45 USC 359, 362.

Effective date.
45 USC 797, 797 note.
Ante, p. 1903.

(c) Repeal of Section 701.—Section 701 of the Regional Rail Reorganization Act of 1973 is repealed effective on the sale date. Notwithstanding this repeal—

(1) any dispute or controversy regarding benefits under section 701 shall be determined under the terms of the law in effect prior to such repeal; and

(2) the Railroad Retirement Board shall take such actions as may be necessary to complete administration and closeout of the section 701 program and the Board is authorized to receive and apply Corporation funds for this purpose.

45 USC 797 note.

(d) Continuing Responsibilities.—(1) On and after the sale date, the Corporation shall provide the protection for its employees described in "Part III, Article III, Employee Protection", of the "Definitive Agreement of September 17, 1985, By and Between Conrail and the Undersigned Representatives of Conrail's Agreement Employees" and Appendix 3 thereto, together with any amendments thereto, or under any other terms and conditions as shall be agreed between the Corporation and the representatives of its employees.

(2) The Corporation shall pay, as designated by the Railroad Retirement Board, any remaining benefits under section 701 of the Regional Rail Reorganization Act of 1973 that accrued, but were not disbursed, prior to the sale date.

Records.

(3) The Railroad Retirement Board shall transfer to the Corporation such information regarding administration of the labor protection program under such section 701 as may be reasonably necessary for the Corporation to discharge its responsibilities under this subsection, including copies of the individual claim records of employees of the Corporation.

(4) The United States shall have no liability for benefits under this subsection.

45 USC 797 note.

(e) Compensation for Wages Below Industry Standard.—The Corporation shall pay $200,000,000 to present and former employees subject to collective bargaining agreements, in accordance with the terms and conditions in the Definitive Agreement referred to in subsection (d)(1), or as otherwise agreed between the parties.

Securities.
45 USC 797 note.

(f) ESOP Transactions.—(1) As soon as practicable after the date of the enactment of this Act, the employee stock ownership plan of the Corporation (hereafter in this subsection referred to as the "ESOP") shall be amended to provide that—

(A) the shares of the ConRail Equity Corporation preferred stock held by the ESOP shall be surrendered by the ESOP in exchange for an equal number of shares of the common stock of the Corporation, and such common stock of the Corporation shall be allocated by the ESOP to the same persons in the same amounts as the shares of ConRail Equity Corporation preferred stock had been allocated; and

(B) the remaining shares of the ConRail Equity Corporation preferred stock held by the Corporation shall be cancelled, and an equal number of shares of the common stock of the Corporation shall be contributed by the Corporation to the ESOP, which shares shall be allocated by the ESOP to persons who are or were ESOP participants in accordance with the formula set forth in section 2 of Article II of Part III of the Definitive Agreement referred to in subsection (d)(1), and in accordance with a comparable formula for present and former employees of the Corporation not covered by such section of the Definitive Agreement, except that no contribution by the Corporation to the ESOP shall be made which would affect the tax-qualified status of the ESOP, or of any of the employee benefit plans maintained by the Corporation or any affiliate of the Corporation, under the Internal Revenue Code of 1954.

Post, p. 2095.

(2)(A)(i) As soon as practicable after the expiration of 180 days after 100 percent of the United States shares are sold, the ESOP shall distribute all of the stock in the accounts of its participants and beneficiaries, except as provided in clause (ii).

(ii) Fractional shares shall not be distributed under clause (i). Shares equal to the aggregate amount of fractional shares shall be surrendered by the ESOP and redeemed by the Corporation for cash at the average closing price for the common stock of the Corporation on a national securities exchange for the 10 business days immediately preceding the date of distribution under clause (i), or, if the common stock of the Corporation is not listed on a national securities exchange, at the average closing price for such stock for such 10 business days as appearing in any regularly published reporting or quotation service, and the proceeds of such redemption shall be distributed by the ESOP to the same participants and beneficiaries and in the same amounts as the fractional shares had been allocated.

(B) After completing the distribution under subparagraph (A), the ESOP shall terminate.

(3) The Corporation shall distribute any full shares of its common stock which, because of the exception under paragraph (1)(B), could not be contributed to the ESOP to those persons to whom the ESOP would have allocated such shares pursuant to paragraph (1)(B) had such shares been contributed to the ESOP. The Corporation shall pay cash pursuant to the formula set forth in paragraph (2)(A)(ii) in lieu of fractional shares.

(4) For purposes of Rule 144 promulgated under the Securities Act of 1933, each share of the common stock of the Corporation distributed under this subsection shall be deemed to have been beneficially owned by the recipient, as of the date of such distribution, for a period of 3 years.

15 USC 77a.

SEC. 4025. CERTAIN ENFORCEMENT RELIEF.

Claims.
45 USC 1324.

(a) Enforcement Actions.—The Secretary of Transportation, with respect to any provision of section 4021 or 4022, and any person who suffers direct and substantial economic injury as a result of an alleged violation by the Corporation, with respect to the provisions of section 4021(a)(1) and (2), and section 4022, may bring an action to require compliance with such provision.

(b) Special Court.—Any action brought under this part shall be brought before the special court established under section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719). Such special court may limit the enforcement of a restriction under section 4021, if the effect of such restriction would be to substantially impair the continued viability of the Corporation.

100 STAT. 1906

Subpart C—Miscellaneous Technical and Conforming Amendments and Repeals

45 USC 1341.

SEC. 4031. ABOLITION OF UNITED STATES RAILWAY ASSOCIATION.

Effective date.

(a) Abolition and Termination.—(1) Effective April 1, 1987, the United States Railway Association is abolished.

(2) On January 1, 1987, all powers, duties, rights, and obligations of such association relating to the Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) shall be transferred to the Secretary of Transportation.

(3) The sole function of the United States Railway Association after January 1, 1987, shall be the termination of its affairs and the liquidation of its assets.

(b) Transfer of Securities and Responsibilities.—(1) Any securities of the Corporation held by the United States Railway Association shall, upon the date of the enactment of this Act, be transferred to the Secretary of Transportation.

(2) If, on the date the United States Railway Association is abolished under subsection (a), such association shall not have completed the termination of its affairs and the liquidation of its assets, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of Transportation, who for such purposes shall succeed to all remaining powers, duties, rights, and obligations of such association.

Securities.

(c) Financing Agreement.—(1) On January 1, 1987, the Amended and Restated Financing Agreement, dated May 10, 1979, between the United States Railway Association and the Corporation, together with any and all rights and obligations of or on behalf of any person with respect to such agreement, shall terminate and be of no further force or effect, except for those provisions specifying terms and conditions for payments made to the United States with respect to debentures, preferred stock, and contingent interest notes.

Effective date.

(2) Effective as of the sale date, those provisions of the Financing Agreement referred to in paragraph (1) shall terminate.

SEC. 4032. APPLICABILITY OF REGIONAL RAIL REORGANIZATION ACT OF 1973 TO CONRAIL AFTER SALE.

Section 301 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741) is amended by adding at the end thereof the following new subsection:

"(k) Governing Provisions After Sale.—The provisions of this Act shall not apply to the Corporation and to activities and other actions and responsibilities of the Corporation and its directors and employees after the sale date, other than with regard to—

Post, p. 1908. "(1) section 102;

45 USC 711. "(2) section 201(d);

45 USC 713. "(3) section 203, but only with respect to information relating to proceedings before the special court established under section 209(b);

45 USC 719. "(4) section 209, other than subsection (f) thereof;

45 USC 726. "(5) section 216(f)(8), but only as such authority applies to activities related to the ESOP and related trust before the sale date;

"(6) section 216(f)(9), but only as such indemnification applies to activities relating to the ESOP and related trust before the sale date;

100 STAT. 1907

Securities. 45 USC 726. "(7) section 216(f)(10) with respect to all securities of the Corporation issued or transferred in connection with the public offering under the Conrail Privatization Act and all securities of ConRail Equity Corporation and all interests in the ESOP;

Post, p. 1908. "(8) section 217(c) and (e);

"(9) subsection (b) of this section, but only with respect to matters covered by the last sentence of such subsection;

"(10) subsection (i) of this section, but only as such authority applies to service as a director of the Corporation before the sale of the interest of the United States in the common stock of the Corporation;

Securities.

"(11) section 302, but only to the extent of (A) the creation and maintenance of the power and authority of the Corporation to operate rail service and to rehabilitate, improve, and modernize rail properties, and (B) the creation and maintenance of the powers of the Corporation as a railroad in any State in which it operates as of the sale date;

State and local governments. 45 USC 742.

"(12) section 303(b)(1) and (2), but only to the extent of establishing the legal effect of the conveyance of property ordered and of the deeds and other instruments executed, acknowledged, delivered, or recorded in connection therewith and the quality of title acquired in such property;

45 USC 743.

"(13) section 303(b)(3)(B) with respect to the effect of an assignment, conveyance, or assumption as set forth in the last sentence of such subparagraph (B);

"(14) section 303(b)(5);

"(15) section 303(b)(6), but only with respect to establishing and maintaining the rights of the Corporation with respect to, limiting its obligations with respect to, and establishing the status of, the employee pension and welfare benefit plans transferred to the Corporation thereunder and with respect to the exclusivity of the jurisdiction of the special court and the limitation of jurisdiction of other courts;

"(16) section 303(e);

"(17) section 304, but only with respect to the finality of abandonments completed before the sale date pursuant to the authority thereof;

45 USC 744.

"(18) section 305, but only as to the effect, and continuing administration, of supplemental transactions consummated before the sale date;

45 USC 745.

"(19) section 308, but only (A) as to the finality of abandonments completed before the sale date and (B) as to abandonments of lines where a notice or notices of insufficient revenues with respect to such lines have been filed before November 1, 1985;

45 USC 748.

"(20) section 601(a)(2), but only with respect to activities before the sale date;

45 USC 791.

"(21) section 601(b)(2) and (b)(3), but only with respect to issuance of and transactions in any security of the Corporation before the sale date;

"(22) section 702(e);

45 USC 797a.

"(23) section 703;

45 USC 797b.

"(24) section 704;

45 USC 797c.

"(25) sections 706(a), 707, and 708(a), but only insofar as they establish part of the prevailing status quo for the Corporation's employees' rates of pay, rules, and working conditions, such provisions to continue to apply unless changed pursuant to section 6 of the Railway Labor Act (45 U.S.C. 156);

45 USC 797e–797g.

100 STAT. 1908

"(26) section 709;

45 USC 797h.

"(27) section 710(b)(1);

45 USC 797i.

"(28) section 711; and

45 USC 797j.

"(29) section 714, but only with regard to disputes or controversies specified in such section that arose before the sale date.".

45 USC 797m.

SEC. 4033. MISCELLANEOUS AMENDMENTS AND REPEALS.

(a) Regional Rail Reorganization Act of 1973 Repeals.—The following provisions of the Regional Rail Reorganization Act of 1973 (together with any items relating to such provisions contained in the table of contents of such Act) are repealed:

45 USC 701 note.

(1) Title IV (45 U.S.C. 761 through 769c).

(2) Section 713 (45 U.S.C. 797l).

(b) REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.—(1) Section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702) is amended by inserting after paragraph (17) a new paragraph as follows:

"(17A) 'sale date' means the date on which the initial public offering of the securities of the Corporation is closed under the Conrail Privatization Act;".

(2) Section 217(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727(c)) is amended by striking ", until the property" and all that follows, and inserting in lieu thereof "applicable to any taxable period commencing before January 1, 1987.".

(3) Section 217(e) of such Act (45 U.S.C. 727(e)) is amended by striking "and shall collect".

(c) AMENDMENTS AND REPEALS OF OTHER RAIL LAWS.—(1)(A) Section 1152 of the Northeast Rail Service Act of 1981 (45 U.S.C. 1105) is amended—

(i) by inserting "or part 2 of the Conrail Privatization Act" after "subtitle" each place it appears; and

(ii) in the second sentence of subsection (c), by inserting ", as the case may be," after the insertion made by clause (i) of this subparagraph.

(B) Section 1168(a) of the Northeast Rail Service Act of 1981 (45 U.S.C. 1116(a)) is amended by inserting before the period at the end the following: "and to the implementation of the sale of the interest of the United States in Conrail under the Conrail Privatization Act".

(C)(i) The following provisions of the Northeast Rail Service Act of 1981 are repealed:

(I) Section 1154 (45 U.S.C. 1107).
(II) Section 1161 (45 U.S.C. 1110).
(III) Section 1166 (45 U.S.C. 1114).
(IV) Subsection (c) of section 1167 (45 U.S.C. 1115).

(ii) The items relating to such sections 1154, 1161, and 1166 in the table of contents of such Act are repealed.

(2) Section 501(8) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(8)) is amended by striking out "(A)" and by striking out all that follows "improved asset utilization;".

(3) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

100 STAT. 1909

(A) in subsection (a)(1), by striking out all after "railroad" through "1981)"; and

(B) in subsection (b)(2)(C), by striking out all after "costs" the second time it appears through "subsidy".

(4) Subsection (b)(1) of section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is repealed.

(5) Section 511(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(e)) is amended—

(A) by striking out "(1)" in the first paragraph;

(B) by striking all that follows "time" in the first paragraph and inserting in lieu thereof a period; and

(C) by striking out paragraph (2).

(6) Section 402 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 825a) is repealed.

(7) Section 10362(b)(7)(A) of title 49, United States Code, is amended by striking out "by the Consolidated Rail Corporation or".

45 USC 1342.

SEC. 4034. EXEMPTION FROM LIABILITY.

(a) IN GENERAL.—No person referred to in section 216(f)(8)(C)(i), (ii), or (iii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(8)(C)(i), (ii), or (iii)) shall be liable, for money damages or otherwise, to any party if, with respect to the subject matter of the action, suit, or proceeding, such person was fulfilling a duty, in connection with any action taken under this part, which such person in good faith reasonably believed to be required by law or vested in such person.

(b) Exception.—This section shall not apply to claims arising out of the Securities Act of 1933, the Securities Exchange Act of 1934, or the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities, which claims are in connection with a public offering under section 4012 of this Act.

Claims.
Securities.
State and local governments.
15 USC 77a.
15 USC 78a.

SEC. 4035. CHARTER AMENDMENT.

45 USC 1343.

Within 60 days after the date of the enactment of this Act, the Corporation shall amend its Articles of Incorporation to contain the following provision, which provision shall not be subject to amendment or repeal:

"It shall be a fundamental purpose of the Corporation to maintain continued rail service in its service area.".

SEC. 4036. STATUS OF CONRAIL AFTER SALE.

45 USC 1344.

The Corporation shall be a rail carrier as defined in section 10102(19) of title 49, United States Code, notwithstanding this part.

SEC. 4037. EFFECT ON CONTRACTS.

45 USC 1345.

Nothing in this part shall affect any obligation of the Corporation to carry out its transportation contracts and equipment leases, equipment trusts, and conditional sales agreements, in accordance with their terms.

SEC. 4038. RESOLUTION OF CERTAIN ISSUES.

45 USC 1346.

(a) Employee Issues.—Section 4024 completely and finally—

(1) extinguishes all employee rights, and any obligation of the United States, under section 401(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 761(e)) as in effect immediately before the date of the enactment of this Act;

(2) resolves any and all claims against the Corporation or any other person arising under the Definitive Agreement referred to in section 4024(d)(1) or any other agreement containing similar terms and conditions;

Claims.
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(3) resolves all claims to pay entitlements arising out of the pay increase deferrals by present and former employees of the Corporation under the Agreement of May 5, 1981, between Conrail and Certain Labor Organizations for Labor Contributions to Self-Sufficiency for Conrail;

Claims.

(4) resolves all issues raised by notices served by representatives of such employees under section 6 of the Railway Labor Act proposing repayment of or compensation for such deferrals; and

45 USC 156.

(5) resolves all claims against the Railway Labor Executives' Association or the Corporation by any adviser, consultant, or other person who has provided services to such association in connection with any matter referred to in this part.

Claims.

(b) Corporation Actions.—The Corporation shall not be considered to be in breach, default, or violation of any agreement to which it is a party, notwithstanding any provision of such agreement, because of any provision of this part or any action the Corporation is required to take under this part.

(c) Right To Sue Withdrawn.—The United States hereby withdraws any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising out of, or resulting from, acts or omissions under this part, except actions brought to require the Secretary of Transportation to perform duties or acts required under subpart A.

Claims.

PART 3—PROMOTION OF RAIL COMPETITION

SEC. 4051. AGRICULTURE CONTRACT DISCLOSURE.

Section 10713(b) of title 49, United States Code, is amended by inserting "(1)" after "(b)"; and by adding at the end a new paragraph as follows:

"(2)(A) The essential terms of any contract for the transportation of agricultural commodities to be made available to the general public in tariff format under this subsection shall include, but shall not be limited to (i) the identity of the shipper party to the contract; (ii) the specific origins, transit points and other shipper facilities subject to the contract, and destinations served under such contract; (iii) the duration of the contract, including provisions for optional extension; (iv) the actual volume requirements, if any; (v) whether any transportation service has begun under a contract before the date such contract is filed with or approved by the Commission, and (vi) the date on which the contract became applicable to the transportation services provided under the contract. The Commission shall interpret this subsection to provide for liberal discovery to shippers seeking remedies under subsection (d)(2)(B) of this section.

"(B) Any amendment, supplement, or change to any term or provision of any contract described in subparagraph (A), including extensions of such contract, changes of origin, transit points, affected shipper facilities, destination points, or negotiated economic terms, shall be deemed to be a separate and new contract for the purposes of this subsection. Such amendments, supplements, or changes shall be filed separately with the Commission as provided in paragraph (1).

Regulations.

"(C) Within 60 days after the date of the enactment of the Conrail Privatization Act, the Commission shall issue regulations which require that essential terms of contracts described in subparagraph (A) shall be made available to the general public in tariff format as provided in this paragraph.

Reports.

"(D) The railroad contract rate advisory service established pursuant to subsection (m) of this section shall assess the impact on competition among agricultural shippers of variations between contract rates for various shipments and the published single car rates, and shall submit a report to the Congress not later than 120 days after the date of the enactment of the Conrail Privatization Act.".

SEC. 4052. BOXCAR PROVISION.

The authority of the Commission to promulgate that portion of the rule adopted by the Commission in Ex Parte No. 346 (Sub. No. 19) served September 12, 1986, consisting of small railroad protections, is hereby confirmed.

Subtitle B—Economic Development Administration

SEC. 4101. SALE OF NOTES.

Notwithstanding any other provision of law, the Secretary of Commerce shall, under such terms as the Secretary may provide, sell defaulted notes held by the Economic Development Administration in such amounts as to realize net proceeds of not less than $50,000,000 from such sales during fiscal year 1987.

TITLE V—MARITIME PROGRAMS

Subtitle A—Maritime Loan Guarantees

SEC. 5001. LOAN GUARANTEES.

(a) Section 362(b) of title 11, United States Code, is amended—

(1) by striking the period in paragraph (11) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following:

State and local governments.

"(12) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization pursuant to chapter 11 of this title and which was brought by the Secretary of Transportation under the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.) (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage, or a security interest in or relating to a vessel or vessel under construction, held by the Secretary of Transportation under section 207 or title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1117 and 1271 et seq., respectively), or under applicable State law; or

11 USC 1101 *et seq.*

"(13) under subsection (a) of this section, after the date which is 90 days after the filing of such petition, of the commencement or continuation, and conclusion to the entry of final judgment, of an action which involves a debtor subject to reorganization

100 STAT. 1912

pursuant to chapter 11 of this title and which was brought by the Secretary of Commerce under the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.) (including distribution of any proceeds of sale) to foreclose a preferred ship or fleet mortgage in a vessel or a mortgage, deed of trust, or other security interest in a fishing facility held by the Secretary of Commerce under section 207 or title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1117 and 1271 et seq., respectively).

11 USC 1101 *et seq.*

The provisions of paragraphs (12) and (13) of this subsection shall apply with respect to any such petition filed on or before December 31, 1989.".

Before July 1, 1989, the Secretary of Transportation and the Secretary of Commerce each shall submit a report to the Committees on Merchant Marine and Fisheries, and the Judiciary of the House of Representatives and the Committees on Commerce, Science, and Transportation, and the Judiciary of the Senate on the effects of this subsection together with any recommendations for legislation.

Reports.
11 USC 362 note.

(b) The amendments made by subsection (a) of this section shall apply only to petitions filed under section 362 of title 11, United States Code, which are made after August 1, 1986.

11 USC 362 note.

(c) Subsection L of section 30 of the Merchant Marine Act of 1920 (46 App. U.S.C. 952) is amended by adding at the end the following: "When the Secretary of Commerce or Transportation is a mortgagee under this Act, the Secretary may foreclose on liens arising from rights attendant to the creation of mortgages under title XI of the Merchant Marine Act, 1936, subject to section 362(b) of title 11, United States Code.".

46 USC 1271 *et seq.*

SEC. 5002. AMOUNT OF GUARANTEE FOR OBLIGATIONS.

Section 1103(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273(a)) is amended by adding at the end thereof the following: "A guarantee, or commitment to guarantee, made by the Secretary under this title shall cover 100 percent of the amount of the principal and interest of the obligation.".

SEC. 5003. AMOUNT OF GUARANTEE FOR OBLIGATIONS RELATING TO FISHING VESSELS OR FISHERY FACILITIES.

Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274(b)(2)) is amended by striking "*Provided, further,* That in the case of any vessel to be used in the fishing trade or industry, such obligations may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the vessel:" and inserting in lieu thereof "*Provided further,* That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed under this proviso through the Federal Financing Bank:".

Alaska.
16 USC 1856 note.

SEC. 5004. FOREIGN FISH PROCESSING IN NORTON SOUND.

For purposes of processing pink salmon within the internal waters of the State of Alaska, the geographic area bounded on the north by a parallel of latitude of 64 degrees, 23 minutes, on the south by a parallel of latitude of 63 degrees, 51 minutes, on the east by the baseline from which the territorial sea is measured, and on the west by the outer limit of the territorial sea, shall be considered to be

100 STAT. 1913

internal waters of the State of Alaska for the purposes of section 306(c)(4)(B) of the Fishery Conservation and Management Act (16 U.S.C. 1856(c)(4)(B)) until September 30, 1993.

Subtitle B—Load Line and Tonnage Measurement User Fees

SEC. 5101. AMENDMENTS TO TITLE 46.

Subtitle II of title 46, United States Code, is amended as follows:

(1) The table of chapters at the beginning of the subtitle is amended by—

(A) striking "[Part C—Reserved for Load Lines of Vessels]" and inserting—

"Part C—Load Lines of Vessels

"51. Load lines .... 5101";

and

(B) striking "[Part J—Reserved for Measurement of Vessels]" and inserting—

"Part J—Measurement of Vessels

"141. General 14101
"143. Convention measurement 14301
"145. Regulatory measurement 14501
"147. Penalties .... 14701"

(2) Immediately after part B, strike "[Part C—Reserved for Load Lines of Vessels]" and insert the following new part C:

"PART C—LOAD LINES OF VESSELS

"CHAPTER 51—LOAD LINES

Sec.
"5101. Definitions.
"5102. Application.
"5103. Load line requirements.
"5104. Assignment of load lines.
"5105. Load line surveys.
"5106. Load line certificate.
"5107. Delegation of authority.
"5108. Special exemptions.
"5109. Reciprocity for foreign vessels.
"5110. Submersible vessels.
"5111. Providing loading information.
"5112. Loading restrictions.
"5113. Detention of vessels.
"5114. Use of Customs Service officers and employees for enforcement.
"5115. Regulations.
"5116. Penalties.

46 USC 5101.

"§ 5101. Definitions

"In this chapter—

"(1) 'domestic voyage' means movement of a vessel between places in, or subject to the jurisdiction of, the United States, except movement between—

"(A) a place in a territory or possession of the United States or the Trust Territory of the Pacific Islands; and

"(B) a place outside that territory, possession, or Trust Territory.

"(2) 'economic benefit of the overloading' means the amount obtained by multiplying the weight of the overload (in tons) by the lesser of—

"(A) the average freight rate value of a ton of the vessel's cargo for the voyage; or

"(B) $50.

"(3) 'existing vessel' means—

"(A) a vessel on a domestic voyage, the keel of which was laid, or that was at a similar stage of construction, before January 1, 1986; and

"(B) a vessel on a foreign voyage, the keel of which was laid, or that was at a similar stage of construction, before July 21, 1968.

"(4) 'freeboard' means the distance from the mark of the load line assigned under this chapter to the freeboard deck.

"(5) 'freeboard deck' means the deck or other structure the Secretary prescribes by regulation.

"(6) 'minimum safe freeboard' means the freeboard that the Secretary decides cannot be reduced safely without limiting the operation of the vessel.

"(7) 'weight of the overload' means the amount obtained by multiplying the number of inches that the vessel is submerged below the applicable assigned freeboard by the tons-an-inch immersion factor for the vessel at the assigned minimum safe freeboard.

"§ 5102. Application

46 USC 5102.

"(a) Except as provided in subsection (b) of this section, this chapter applies to the following:

"(1) a vessel of the United States.

"(2) a vessel on the navigable waters of the United States.

"(3) a vessel—

State and local governments.

"(A) owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State; and

"(B) not registered in a foreign country.

"(4) a public vessel of the United States.

"(5) a vessel otherwise subject to the jurisdiction of the United States.

"(b) This chapter does not apply to the following:

"(1) a vessel of war.

"(2) a recreational vessel when operated only for pleasure.

"(3) a fishing vessel.

"(4) a fish processing vessel of not more than 5,000 gross tons that—

"(A)(i) was constructed as a fish processing vessel before August 16, 1974; or

"(ii) was converted for use as a fish processing vessel before January 1, 1983; and

"(B) is not on a foreign voyage.

"(5) a fish tender vessel of not more than 500 gross tons that—

"(A)(i) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 1, 1980; or

"(ii) was converted for use as a fish tender vessel before January 1, 1983; and

"(B) is not on a foreign voyage.

"(6) a vessel of the United States on a domestic voyage that does not cross the Boundary Line, except a voyage on the Great Lakes.

"(7) a vessel of less than 24 meters (79 feet) overall in length.

"(8) a public vessel of the United States on a domestic voyage.

International agreements.

"(9) a vessel excluded from the application of this chapter by an international agreement to which the United States Government is a party.

"(10) an existing vessel of not more than 150 gross tons that is on a domestic voyage.

"(11) a small passenger vessel on a domestic voyage.

"(12) a vessel of the working fleet of the Panama Canal Commission not on a foreign voyage.

"(c) On application by the owner and after a survey under section 5105 of this title, the Secretary may assign load lines for a vessel excluded from the application of this chapter under subsection (b) of this section. A vessel assigned load lines under this subsection is subject to this chapter until the surrender of its load line certificate and the removal of its load line marks.

International agreements.

"(d) This chapter does not affect an international agreement to which the Government is a party that is not in conflict with the International Convention on Load Lines currently in force for the United States.

46 USC 5103.

"§ 5103. Load line requirements

"(a) A vessel may be operated only if the vessel has been assigned load lines.

"(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel shall mark and maintain the load lines permanently and conspicuously in the way prescribed by the Secretary.

46 USC 5104.

"§ 5104. Assignment of load lines

"(a) The Secretary shall assign load lines for a vessel so that they indicate the minimum safe freeboard to which the vessel may be loaded. However, if the owner requests, the Secretary may assign load lines that result in greater freeboard than the minimum safe freeboard.

"(b) In assigning load lines for a vessel, the Secretary shall consider—

"(1) the service, type, and character of the vessel;

"(2) the geographic area in which the vessel will operate; and

International agreements.

"(3) applicable international agreements to which the United States Government is a party.

"(c) An existing vessel may retain its load lines assigned before January 1, 1986, unless the Secretary decides that a substantial change in the vessel after those load lines were assigned requires that new load lines be assigned under this chapter.

"(d) The minimum freeboard of an existing vessel may be reduced only if the vessel complies with every applicable provision of this chapter.

"(e) The Secretary may designate by regulation specific geographic areas that have less severe weather or sea conditions and from which there is adequate time to return to available safe harbors. The Secretary may reduce the minimum freeboard of a vessel operating in these areas.

46 USC 5105.

"§ 5105. Load line surveys

"(a) The Secretary may provide for annual, renewal, and other load line surveys.

"(b) In conducting a load line survey, the Secretary shall consider whether—

"(1) the hull and fittings of the vessel—

"(A) are adequate to protect the vessel from the sea; and

"(B) meet other requirements the Secretary may prescribe by regulation;

"(2) the strength of the hull is adequate for all loading conditions;

"(3) the stability of the vessel is adequate for all loading conditions;

"(4) the topsides of the vessel are arranged and constructed to allow rapid overboard drainage of deck water in heavy weather; and

"(5) the topsides of the vessel are adequate in design, arrangement, and equipment to protect crewmembers performing outside tasks necessary for safe operation of the vessel.

"§ 5106. Load line certificate

46 USC 5106.

"(a) On finding that a load line survey of a vessel under this chapter is satisfactory and that the vessel's load lines are marked correctly, the Secretary shall issue the vessel a load line certificate and deliver it to the owner, master, or individual in charge of the vessel.

"(b) The certificate shall be maintained as required by the Secretary.

"§ 5107. Delegation of authority

46 USC 5107.

"(a) The Secretary shall delegate to the American Bureau of Shipping or other similarly qualified organizations the authority to assign load lines, survey vessels, determine that load lines are marked correctly, and issue load line certificates under this chapter.

"(b) Under regulations prescribed by the Secretary, a decision of an organization delegated authority under subsection (a) of this section related to the assignment of a load line may be appealed to the Secretary.

"(c) For a vessel intended to be engaged on a foreign voyage, the Secretary may delegate to another country that is a party to the International Convention on Load Lines, 1966, the authority to assign load lines, survey vessels, determine that the load lines are marked correctly, and issue an International Load Line Certificate (1966).

"(d) The Secretary may terminate a delegation made under this section after giving written notice to the organization.

"§ 5108. Special exemptions

46 USC 5108.

"(a) The Secretary may exempt a vessel from any part of this chapter when—

International agreements.

"(1) the vessel is entitled to an exemption under an international agreement to which the United States Government is a party; or

"(2) under regulations (including regulations on special operations conditions) prescribed by the Secretary, the Secretary finds that good cause exists for granting an exemption.

"(b) When the Secretary grants an exemption under this section, the Secretary may issue a certificate of exemption stating the extent of the exemption.

"(c) A certificate of exemption issued under subsection (b) of this section shall be maintained as required by the Secretary.

"§ 5109. Reciprocity for foreign vessels

International agreements.
46 USC 5109.

"(a) When the Secretary finds that the laws and regulations of a foreign country related to load lines are similar to those of this chapter and the regulations prescribed under this chapter, or when a foreign country is a party to an international load line agreement to which the United States Government is a party, the Secretary shall accept the load line marks and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter. The Secretary may control the vessel as provided for in the applicable international agreement.

"(b) Subsection (a) of this section does not apply to a vessel of a foreign country that does not recognize load lines assigned under this chapter.

46 USC 5110.

"§ 5110. Submersible vessels

"Notwithstanding sections 5103–5105 of this title, the Secretary may prescribe regulations for submersible vessels to provide a minimum level of safety. In developing the regulations, the Secretary shall consider factors relevant to submersible vessels, including the structure, stability, and watertight integrity of those vessels.

46 USC 5111.

"§ 5111. Providing loading information

"The Secretary may prescribe regulations requiring the owner, charterer, managing operator, and agent of a vessel to provide loading information (including information on loading distribution, stability, and margin of strength) to the master or individual in charge of the vessel in a language the master or individual understands.

46 USC 5112.

"§ 5112. Loading restrictions

"(a) A vessel may not be loaded in a way that submerges the assigned load line or the place at which the load line is required to be marked on the vessel.

Records.

"(b) If the loading or stability conditions of a vessel change, the master or individual in charge of the vessel, before moving the vessel, shall record in the official logbook or other permanent record of the vessel—

"(1) the position of the assigned load line relative to the water surface; and

"(2) the draft of the vessel fore and aft.

"(c) A vessel may be operated only if the loading distribution, stability, and margin of strength are adequate for the voyage or movement intended.

"(d) Subsections (a) and (b) of this section do not apply to a submersible vessel.

46 USC 5113.

"§ 5113. Detention of vessels

100 STAT. 1918

"(a) When the Secretary believes that a vessel is about to leave a place in the United States in violation of this chapter or a regulation prescribed under this chapter, the Secretary may detain the vessel by giving notice to the owner, charterer, managing operator, agent, master, or individual in charge of the vessel.

"(b) A detained vessel may be cleared under section 4197 of the Revised Statutes (46 App. U.S.C. 91) only after the violation has been corrected. If the vessel was cleared before being detained, the clearance shall be withdrawn.

"(c) Under regulations prescribed by the Secretary, the owner, charterer, managing operator, agent, master, or individual in charge of a detained vessel may petition the Secretary to review the detention order.

"(d) After reviewing a petition, the Secretary may affirm, withdraw, or change the detention order. Before acting on the petition, the Secretary may require any independent survey that may be necessary to determine the condition of the vessel.

"(e) The owner of a vessel is liable for the cost incident to a petition for review and any required survey if the vessel is found to be in violation of this chapter or a regulation prescribed under this chapter.

46 USC 5114.

"§ 5114. Use of Customs Service officers employees for enforcement

"(a) With the approval of the Secretary of the Treasury, the Secretary may use an officer or employee of the United States Customs Service to enforce this chapter and the regulations prescribed under this chapter.

"(b) The Secretary shall consult with the Secretary of the Treasury before prescribing a regulation that affects the enforcement responsibilities of an officer or employee of the Customs Service.

"§ 5115. Regulations 46 USC 5115.

"(a) The Secretary may prescribe regulations to carry out this part.

"§ 5116. Penalties 46 USC 5116.

"(a) Except as otherwise provided in this section, the owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this chapter or a regulation prescribed under this chapter are each liable to the United States Government for a civil penalty of not more than $5,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

"(b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel allowing, causing, attempting to cause, or failing to take reasonable care to prevent a violation of section 5112(a) of this title are each liable to the Government for a civil penalty of not more than $10,000 plus an additional amount equal to twice the economic benefit of the overloading. The vessel also is liable in rem for the penalty.

"(c) The master or individual in charge of a vessel violating section 5112(b) of this title is liable to the Government for a civil penalty of not more than $5,000. The vessel also is liable in rem for the penalty.

"(d) A person causing or allowing the departure of a vessel from a place within the jurisdiction of the United States in violation of a detention order issued under section 5113 of this title shall be fined not more than $10,000, imprisoned for not more than one year, or both.

"(e) A person causing or allowing the alteration, concealment, or removal of a mark placed on a vessel under section 5103(b) of this title and the regulations prescribed under this chapter, except to make a lawful change or to escape enemy capture in time of war, shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(3) Immediately after part I, strike "[PART J—RESERVED FOR MEASUREMENT OF VESSELS]" and insert the following new part J:

"PART J—MEASUREMENT OF VESSELS

"CHAPTER 141—GENERAL

"Sec.
"14101. Definitions.
"14102. Regulations.
"14103. Delegation of authority.
"14104. Measurement to determine application of a law.

"§ 14101. Definitions 46 USC 14101.

"In this part—

"(1) 'Convention' means the International Convention on Tonnage Measurement of Ships, 1969. TIAS 10490.

"(2) 'existing vessel' means a vessel the keel of which was laid or that was at a similar stage of construction before July 18, 1982.

"(3) 'Great Lakes' means—

"(A) the Great Lakes; and

"(B) the St. Lawrence River west of—

"(i) a rhumb line drawn from Cap des Rosiers to West Point, Anticosti Island; and

"(ii) on the north side of Anticosti Island, the meridian of longitude 63 degrees west.

"(4) 'vessel engaged on a foreign voyage' means a vessel—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States (except a foreign vessel engaged on that voyage);

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country; or

"(D) making a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

46 USC 14102.

"§ 14102. Regulations

The Secretary may prescribe regulations to carry out this part.

46 USC 14103.

"§ 14103. Delegation of authority

"(a) The Secretary may delegate to a qualified person the authority to measure a vessel and issue an International Tonnage Certificate (1969) or other appropriate certificate of measurement under this part.

"(b) Under regulations prescribed by the Secretary, a decision of the person delegated authority under subsection (a) of this section related to measuring a vessel or issuing a certificate may be appealed to the Secretary.

"(c) For a vessel intended to be engaged on a foreign voyage, the Secretary may delegate to another country that is a party to the Convention the authority to measure the vessel and issue an International Tonnage Certificate (1969) under chapter 143 of this title. *Infra.*

"(d) The Secretary may terminate a delegation made under this section after giving written notice to the person.

46 USC 14104.

"§ 14104. Measurement to determine application of a law

"When the application of a law of the United States to a vessel depends on the vessel's tonnage, the vessel shall be measured under this part.

"CHAPTER 143—CONVENTION MEASUREMENT

"Sec.
"14301. Application.
"14302. Measurement.
"14303. International Tonnage Certificate (1969).
"14304. Remeasurement.
"14305. Optional regulatory measurement.
"14306. Reciprocity for foreign vessels.
"14307. Inspection of foreign vessels.

46 USC 14301.

"§ 14301. Application

"(a) Except as otherwise provided in this section, this chapter applies to the following:

"(1) a documented vessel.

"(2) a vessel that is to be documented under chapter 121 of this title. 46 USC 12101 *et seq.*

"(3) a vessel engaged on a foreign voyage.

"(b) This chapter does not apply to the following:

"(1) a vessel of war.

"(2) a vessel of less than 24 meters (79 feet) overall in length.

"(3) a vessel operating only on the Great Lakes, unless the owner requests.

"(4) a vessel (except a vessel engaged on a foreign voyage) the keel of which was laid or that was at a similar stage of construction before January 1, 1986, unless—

"(A) the owner requests; or

"(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.

"(5) before July 19, 1994, an existing vessel unless—

"(A) the owner requests; or

"(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.

"(c) A vessel made subject to this chapter at the request of the owner may be remeasured only as provided by this chapter.

"(d) After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5) (A) or (B) of this section) may retain its tonnages existing on July 18, 1994, for the application of relevant requirements under international agreements (except the Convention) and other laws of the United States. However, if the vessel undergoes a change substantially affecting its tonnage after July 18, 1994, the vessel shall be remeasured under this chapter.

International agreements.

100 STAT. 1921

"(e) This chapter does not affect an international agreement to which the United States Government is a party that is not in conflict with the Convention or the application of IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, and A.541 (XIII) of November 17, 1983.

International agreements.

"§ 14302. Measurement

46 USC 14302.

"(a) The Secretary shall measure a vessel to which this chapter applies in the way provided by this chapter and the Convention.

"(b) Except as provided in section 1602(a) of the Panama Canal Act of 1979 (22 U.S.C. 3792(a)), a vessel measured under this chapter may not be required to be measured under another law.

"(c) Unless otherwise provided by law, the measurement of a vessel under this chapter applies to a law of the United States whose applicability depends on a vessel's tonnage, if that law—

"(1) becomes effective after July 18, 1994; or

"(2) is in effect before July 19, 1994, is not enumerated in section 14305 of this title, and is identified by the Secretary by regulation as a law to which this chapter applies.

Effective date. Regulations.

"§ 14303. International Tonnage Certificate (1969)

46 USC 14303.

"(a) After measuring a vessel under this chapter, the Secretary shall issue, on request of the owner, an International Tonnage Certificate (1969) and deliver it to the owner or master of the vessel.

"(b) The certificate shall be maintained as required by the Secretary.

"§ 14304. Remeasurement

46 USC 14304.

"(a) To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if—

"(1) the Secretary or the owner alleges an error in its measurement; or

"(2) the vessel or the use of its space is changed in a way that substantially affects its tonnage.

"(b) Except as provided in this chapter or section 14504 of this title, a vessel that has been measured does not have to be remeasured to obtain another document or endorsement under chapter 121 of this title.

Post, p. 1923.

46 USC 12101 *et seq.*

"§ 14305. Optional regulatory measurement

46 USC 14305.

"(a) On request of the owner of a documented vessel measured under this chapter, the Secretary also shall measure the vessel under chapter 145 of this title. The tonnages determined under that chapter shall be used in applying—

Post, p. 1923.

"(1) parts A, B, C, E, F, and G and sections 12106(c) and 12108(c) of this title;

46 USC 12106, 12108.

"(2) section 3(d)(3) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3));

"(3) section 4 of the Bridge to Bridge Radiotelephone Act (33 U.S.C. 1203(a));

"(4) section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3));

"(5) section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183);

"(6) sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883-1);

"(7) Act of July 14, 1956 (46 App. U.S.C. 883a);

"(8) sections 351, 352, 355, and 356 of the Ship Radio Act (47 U.S.C. 351, 352, 354, and 354a);

"(9) section 403 of the Commercial Fishing Industry Vessel Act (46 U.S.C. 3302 note);

"(10) the Officers' Competency Certificates Convention, 1936, and sections 8303 and 8304 of this title;

46 USC 8303, 8304.

"(11) the International Convention for the Safety of Life at Sea as provided by IMCO Resolution A.494 (XII) of November 19, 1981;

16 UST 185.

"(12) the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as provided by IMO Resolution A.540 (XIII) of November 17, 1983;

"(13) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as provided by IMO Resolution A.541 (XIII) of November 17, 1983;

"(14) provisions of law establishing the threshold tonnage levels at which evidence of financial responsibility must be demonstrated; or

"(15) unless otherwise provided by law, any other law of the United States in effect before July 19, 1994, and not listed by the Secretary under section 14302(c) of this title.

"(b) As long as the owner of a vessel has a request in effect under subsection (a) of this section, the tonnages determined under that request shall be used in applying the other provisions of law described in subsection (a) to that vessel.

46 USC 14306.

"§ 14306. Reciprocity for foreign vessels

"(a) When the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are similar to those of this chapter and the regulations prescribed under this chapter, or when a foreign country is a party to the Convention, the Secretary shall accept the measurement and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.

International agreements.

"(b) Subsection (a) of this section does not apply to a vessel of a foreign country that does not recognize measurements under this chapter. The Secretary may apply measurement standards the Secretary considers appropriate to the vessel, subject to applicable international agreements to which the United States Government is a party.

46 USC 14307.

"§ 14307. Inspection of foreign vessels

"(a) The Secretary may inspect a vessel of a foreign country to verify that—

"(1) the vessel has an International Tonnage Certificate (1969) and the main characteristics of the vessel correspond to the information in the certificate; or

"(2) if the vessel is from a country not a party to the Convention, the vessel has been measured under laws and regulations similar to those of this chapter and the regulations prescribed under this chapter.

Records.

"(b) For a vessel of a country that is a party to the Convention, if the inspection reveals that the vessel does not have an International Tonnage Certificate (1969) or that the main characteristics of the vessel differ from those stated on the certificate or other records in a way that increases the gross or net tonnage of the vessel, the Secretary promptly shall inform the country whose flag the vessel is flying.

"(c) For a vessel of a country not a party to the Convention—

"(1) if the vessel has been measured under laws and regulations that the Secretary finds are similar to those of this chapter and the regulations prescribed under this chapter, the vessel shall be deemed to have been issued an International Tonnage Certificate (1969); and

"(2) if the vessel has not been measured as described in clause (1) of this subsection, the Secretary may measure the vessel.

"(d) An inspection under this section shall be conducted in a way that does not delay a vessel of a country that is a party to the Convention.

"CHAPTER 145—REGULATORY MEASUREMENT

"Subchapter I—General

"Sec.
"14501. Application.
"14502. Measurement.
"14503. Certificate of measurement.
"14504. Remeasurement.

"Subchapter II—Formal Systems

"14511. Application.
"14512. Standard tonnage measurement.
"14513. Dual tonnage measurement.

"Subchapter III—Simplified System

"14521. Application.
"14522. Measurement.

Subchapter I—General

"§ 14501. Application

46 USC 14501.

"This chapter applies to the following:

"(1) a vessel not measured under chapter 143 of this title if—

Ante, p. 1920. 46 USC 12101 *et seq.*

"(A) the vessel is to be documented under chapter 121 of this title; or

"(B) the application of a law of the United States to the vessel depends on the vessel's tonnage.

"(2) a vessel measured under chapter 143 of this title if the owner requests that the vessel also be measured under this chapter as provided in section 14305 of this title.

Ante, p. 1921.

"§ 14502. Measurement

46 USC 14502.

"The Secretary shall measure a vessel to which this chapter applies in the way provided by this chapter.

"§ 14503. Certificate of measurement

46 USC 14503.

"The Secretary shall prescribe the certificate to be issued as evidence of a vessel's measurement under this chapter.

"§ 14504. Remeasurement

46 USC 14504.

"(a) To the extent necessary, the Secretary shall remeasure a vessel to which this chapter applies if—

"(1) the Secretary or the owner alleges an error in its measurement;

"(2) the vessel or the use of its space is changed in a way that substantially affects its tonnage;

"(3) after being measured under subchapter III of this chapter, the vessel becomes subject to subchapter II of this chapter because the vessel or its use is changed; or

Post, p. 1925; *infra*.

"(4) although not required to be measured under subchapter II of this chapter, the vessel was measured under subchapter II and the owner requests that the vessel be measured under subchapter III of this chapter.

"(b) Except as provided in this section and chapter 143 of this title, a vessel that has been measured does not have to be remeasured to obtain another document or endorsement under chapter 121 of this title.

Ante. p. 1920.

46 USC 12101 *et seq.*

"Subchapter II—Formal Systems

46 USC 14511.

"§ 14511. Application

"This subchapter applies to a vessel described in section 14501 of this title if—

"(1) the owner requests; or

"(2) the vessel is—

"(A) self-propelled;

"(B) at least 24 meters (79 feet) overall in length; and

"(C) not operated only for pleasure.

46 USC 14512.

Regulations.

"§ 14512. Standard tonnage measurement

"(a) The Secretary shall prescribe regulations for measuring the gross and net tonnages of a vessel under this subchapter. The regulations shall provide for tonnages comparable to the tonnages that could have been assigned under sections 4151 and 4153 of the Revised Statutes of the United States, as sections 4151 and 4153 existed immediately before the enactment of this section.

Post, p. 1928.

"(b) On application of the owner or master of a vessel of the United States used in foreign trade, the Secretary may attach an appendix to the vessel's register stating the measurement of spaces that may be deducted from gross tonnage under laws and regulations of other countries but not under those of the United States.

46 USC 14513.

"§ 14513. Dual tonnage measurement

"(a) On application by the owner and approval by the Secretary, the tonnage of spaces prescribed by the Secretary may be excluded in measuring under this section the gross tonnage of a vessel measured under section 14512 of this title. The spaces prescribed by the Secretary shall be comparable to the spaces that could have been excluded under section 2 of the Act of September 29, 1965 (Public Law 89-219, 79 Stat. 891), as section 2 existed immediately before the enactment of this section.

46 USC 83a.

"(b) The Secretary shall prescribe the design, location, and dimensions of the tonnage mark to be placed on a vessel measured under this section.

"(c)(1) If a vessel's tonnage mark is below the uppermost part of the load line marks, each certificate stating the vessel's tonnages shall state the gross and net tonnages when the mark is submerged and when it is not submerged.

100 STAT. 1925

"(2) Except as provided in paragraph (1) of this subsection, a certificate stating a vessel's tonnages may state only one set of gross and net tonnages.

"Subchapter III—Simplified System

46 USC 14521.

"§ 14521. Application

"This subchapter applies to a vessel described in section 14501 of this title that is not measured under subchapter II of this chapter.

Ante, p. 1924.

46 USC 14522.

"§ 14522. Measurement

"(a) In this section, "length" means the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

"(b)(1) The Secretary shall assign gross and net tonnages to a vessel based on its length, breadth, depth, other dimensions, and appropriate coefficients.

"(2) The Secretary shall prescribe the way dimensions (except length) are measured and which coefficients are appropriate.

"(c) The resulting gross tonnages, taken as a group, reasonably shall reflect the relative internal volumes of the vessels measured under this subchapter. The resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subchapter II of this chapter.

"(d) Under regulations prescribed by the Secretary, the Secretary may determine the gross and net tonnages of a vessel representative of a designated class, model, or type, and then assign those gross and net tonnages to other vessels of the same class, model, or type.

"CHAPTER 147—PENALTIES

"Sec.
"14701. General violation.
"14702. False statements.

"§ 14701. General violation

46 USC 14701.

"The owner, charterer, managing operator, agent, master, and individual in charge of a vessel violating this part or a regulation prescribed under this part are each liable to the United States Government for a civil penalty of not more than $20,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

"§ 14702. False statements

46 USC 14702.

"A person knowingly making a false statement or representation in a matter in which a statement or representation is required by this part or a regulation prescribed under this part is liable to the United States Government for a civil penalty of not more than $20,000 for each false statement or representation. The vessel also is liable in rem for the penalty.".

SEC. 5102. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) Title 14, United States Code, is amended as follows:

(1) In the analysis of chapter 17, add the following after item 663:

"664. User fees.".

100 STAT. 1926

(2) In section 651, strike "preceding fiscal year." and substitute "preceding fiscal year, including amounts collected as provided under section 664 of this title.".

(3) After section 663, add the following new section:

"§ 664. User fees

46 USC 664.
Uniformed services.

"(a) A fee or charge for a service or thing of value provided by the Coast Guard shall be prescribed as provided in section 9701 of title 31.

"(b) Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

Reports.

"(c) Before January 1 of each year, the Secretary shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—

"(1) a verification of each activity for which a fee or charge is collected stating—

"(A) the amount collected in the prior fiscal year; and

"(B) that the amount spent on that activity in that fiscal year is not less than the amount collected; and

"(2) the amount expected to be collected in the current fiscal year for each activity for which a fee or charge is expected to be collected.".

(b) Title 46, United States Code, is amended as follows:

(1) In section 2101—

(A) between clauses (20) and (21), insert the following new clause:

"(20a) 'overall in length' means—

"(A) for a foreign vessel or a vessel engaged on a foreign voyage, the greater of—

"(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

"(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

"(B) for any other vessel, the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments."; and

(B) add at the end the following new clause:

"(47) 'vessel of war' means a vessel—

"(A) belonging to the armed forces of a country;

"(B) bearing the external marks distinguishing vessels of war of that country;

"(C) under the command of an officer commissioned by the government of that country and whose name appears in the appropriate service list or its equivalent; and

"(D) staffed by a crew under regular armed forces discipline.".

46 USC 3701 *et seq.*, 4301 *et seq.*; *ante*, p. 1913.

(2) Section 2102 is amended by striking "chapters 43" and substituting "chapters 37, 43, 51,".

100 STAT. 1927

(3) In section 2109, strike "This" and substitute "Except as otherwise provided, this".

(4) In section 2110—

(A) strike "examination of vessels" and substitute "examination of vessels under part B of this subtitle"; and

(B) strike "measurement or".

(5) Section 3701 (5) and (6) is repealed.

(6) In section 12102—

(A) insert the subsection designation "(a)" at the beginning of the text of the section; and

(B) add at the end of the section the following new subsection:

Ante, p. 1919.

"(b) A vessel is eligible for documentation only if it has been measured under part J of this subtitle. However, the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.".

46 USC note prec. 2101.

SEC. 5103. MISCELLANEOUS PROVISIONS.

(a) Laws effective after January 1, 1986, that are inconsistent with this subtitle supersede this subtitle to the extent of the inconsistency.

(b) A reference to a law replaced by this subtitle, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this subtitle.

(c) An order, rule, or regulation in effect under a law replaced by this subtitle continues in effect under the corresponding provision of this subtitle until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by this subtitle is deemed to have been taken or committed under the corresponding provision of this subtitle.

(e) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by this subtitle.

(f) If a provision enacted by this subtitle is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this subtitle is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications.

(g) The Secretary of Transportation shall— 46 USC 14301 note.

(1) before July 19, 1990, submit to Congress—

(A) a study of—

(i) the impact of applying vessel tonnage determined under chapter 143 of title 46 (as enacted by section 5101 of this subtitle), United States Code, in laws of the United States that contain provisions based on tonnage, including an analysis of the number and types of vessels that would become subject to additional laws or more stringent requirements because of that application; and

(ii) the extent to which the tonnage thresholds in laws of the United States whose application is based on tonnage would have to be raised so that additional vessels would not become subject to those laws if their application is based on tonnage determined under chapter 143; and

(B) a recommendation of the levels to which the tonnage thresholds in laws of the United States whose application is based on tonnage should be raised if a complete conversion to the International Convention measurement system under chapter 143 is made;

Ante, p. 1920.

(2) in conducting the study under clause (1) of this subsection, consult with representatives of the private sector having experience with the operation of vessels likely to be affected by laws of the United States whose application is based on tonnage; and

(3) before July 19, 1988, submit to Congress an interim progress report on the study conducted under clause (1) of this subsection. Reports.

SEC. 5104. REPEALS. 46 USC note prec. 2101.

(a) The repeal of a law by this subtitle may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this subtitle:

Revised Statutes

Revised Statutes Section	United States Code	Title Section
4148	46 App.	71
4149	46 App.	72
4151	46 App.	75
4153	46 App.	77
4154	46 App.	81

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		United States Code	
			Volume	Page	Title	Section
1882 Aug. 5	398		22	300	46 App.	81
1935 Aug. 27	747		49	888	46 App.	88–88i
1965 Sept. 29	89–219		79	891	46 App.	72, 74, 77, 83–83k
1973 Oct. 1	93–115		87	418	46 App.	86–86i
1976 Sept. 10	94–406	8	90	1236	46 App.	420

100 STAT. 1929

Subtitle C—Establishment of a Timetable for Completion of Coast Guard Offshore Safety Studies

SEC. 5201. REGULATIONS.

(a) DEADLINE FOR EFFECTIVENESS.—The Secretary of the department in which the Coast Guard is operating (hereafter in this subtitle referred to as the "Secretary") shall issue final regulations, to become effective before September 1, 1987, relating to the evacuation of personnel as provided for in the advance notice of proposed rulemaking regarding the revision of the regulations on outer Continental Shelf activities (50 Fed. Reg. 9290 (1985)), published March 7, 1985.

(b) CONSIDERATION OF STANDBY VESSELS FOR EVACUATION.—In preparing regulations referred to in subsection (a), the Secretary shall consider requiring standby vessels for the evacuation of personnel from manned installations on the outer Continental Shelf.

SEC. 5202. REPORTS TO CONGRESS.

(a) PRELIMINARY REPORT.—The Secretary shall, before December 31, 1986, submit to the Congress a report setting forth the progress made in preparing the regulations referred to in section 5201(a).

(b) FINAL REPORT.—The Secretary shall, before September 1, 1987, submit to the Congress a report setting forth the justification for the manned installation evacuation procedures contained in the final regulations referred to in section 5201(a).

TITLE VI—CIVIL SERVICE, POSTAL SERVICE, AND GOVERNMENTAL AFFAIRS GENERALLY

Subtitle A—Civil Service and Postal Service

SEC. 6001. ELECTIONS TO CONTRIBUTE TO THE THRIFT SAVINGS FUND.

(a) PARTICIPANTS IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Paragraph (4) of section 8432(b) of title 5, United States Code (as added by Public Law 99-335), is amended— *Ante*, p. 541.

(A) by inserting "(A)" after "(4)";

(B) by inserting "continues as an employee or Member without a break in service through April 1, 1987," in the first sentence after "January 1, 1987,";

(C) by striking out "January 1, 1987." in the second sentence and inserting in lieu thereof "April 1, 1987.";

(D) by striking out "the last day of that election period." in the third sentence and inserting in lieu thereof "the date on which the employee or Member makes that election."; and

(E) by adding at the end thereof the following new subparagraph:

"(B) Notwithstanding subsection (a), the maximum amount that an employee or Member may contribute during any pay period which begins on or after April 1, 1987, and before October 1, 1987, pursuant to an election made during the election period provided under subparagraph (A) is the amount equal to 15 percent of such individual's basic pay for such pay period.".

(2) Section 8432(c) of title 5, United States Code, is amended— *Ante*, p. 541.

(A) in paragraph (1)—

(i) by inserting "(A)" after "(c)(1)"; and

(ii) by adding at the end thereof the following new subparagraphs:

"(B) In the case of each employee or Member who is an employee or Member on January 1, 1987, and continues as an employee or Member without a break in service through April 1, 1987, the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for that period of service.

"(C) If an employee or Member—

"(i) is an employee or Member on January 1, 1987;

"(ii) separates from Government employment before April 1, 1987; and

"(iii) before separation, completes the number of years of civilian service applicable to such employee or Member under subparagraph (A) or (B) of subsection (g)(2),

the employing agency shall contribute to the Thrift Savings Fund for the benefit of such employee or Member the amount equal to 1 percent of the total basic pay paid to such employee or Member for service performed on or after January 1, 1987, and before the date of the separation."; and

(B) in paragraph (2), by inserting after subparagraph (B) the following:

"(C) Notwithstanding subparagraph (B), the amount contributed under subparagraph (A) by an employing agency with respect to any contribution made by an employee or Member during any pay period which begins after the date on which such employee or Member makes an election under subsection (b)(4) and before July 1, 1987, shall be the amount equal to the sum of—

"(i) two times such portion of the total amount of the employee's or Member's contribution as does not exceed 3 percent of such employee's or Member's basic pay for such pay period; and

"(ii) such portion of the total amount of the employee's or Member's contributions as exceeds 3 percent, but does not exceed 5 percent, of such employee's or Member's basic pay for such pay period.".

(3) The contributions required to be made to the Thrift Savings Fund under paragraphs (1)(B), (1)(C), and (3) of section 8432(c) of title 5, United States Code, shall be made as soon as practicable during the 15-day period which begins on April 1, 1987. 5 USC 8432 note.

(b) PARTICIPANTS IN THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM.—Section 206(b) of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335) is amended to read as follows: 5 USC 8351 note. *Ante*, p 593.

Ante, p. 593.

"(b)(1) An election may first be made by an employee of the Federal Government or a Member of Congress under subsection (a)(2) of section 8351 of title 5, United States Code (as added by subsection (a)(1)), during an election period prescribed for the purposes of this subsection by the Executive Director of the Federal Retirement Thrift Investment Board. Such period shall begin on April 1, 1987.

100 STAT. 1931

Effective date.

"(2) An election made by an employee or Member as provided in paragraph (1) shall take effect on the first day of the employee's or Member's first pay period which begins on or after the date of such election.

Ante, p. 593.

"(3) Notwithstanding section 8351(b)(2) of title 5, United States Code (as added by subsection (a)(1)), the maximum amount that an employee or Member may contribute during any pay period which begins on or after April 1, 1987, and before October 1, 1987, pursuant to an election made during the election period provided under paragraph (1) is the amount equal to 7.5 percent of such individual's basic pay for such pay period.".

5 USC 8432 note.

Ante, p. 541.

Ante, p. 1930.

(c) Inapplicability of Limitation on Number of Elections Within a Six-Month Period.—(1) The requirement to make contributions for a 6-month period after an election, as provided in subsection (a) of section 8432 of title 5, United States Code, shall not apply to contributions made pursuant to an election made during the period provided in subsection (b)(4) of such section or 206(b) of the Federal Employees' Retirement System Act of 1986.

(2) The first election period prescribed under section 8432(b)(1) of title 5, United States Code, shall commence on July 1, 1987.

(3) Each employee or Member who makes an election referred to in paragraph (1) may make an election under section 8432(b)(1) of title 5, United States Code, during the election period that begins on July 1, 1987.

5 USC 8432 note.

(d) Regulations.—The Executive Director of the Federal Retirement Thrift Investment Board may prescribe regulations to carry out subsections (a), (b), and (c) and the amendments made by subsections (a) and (b).

Ante, p. 578.

(e) Budget of the Federal Employees' Thrift Investment Board.—Section 8472 of title 5, United States Code, is amended by adding at the end thereof the following:

"(i) The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

"(j) The Board may submit to the President, and, at the same time, shall submit to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.".

5 USC 8432 note.

(f) Effective Date.—This section, other than subsection (d), and the amendments made by this section shall take effect on January 1, 1987.

SEC. 6002. CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) Investment and Restoration of the Fund.—Section 8348 of title 5, United States Code, is amended by adding at the end the following new subsection:

Public debt limit.

"(j)(1) Notwithstanding subsection (c) of this section, the Secretary of the Treasury may suspend additional investment of amounts in the Fund if such additional investment could not be made without causing the public debt of the United States to exceed the public debt limit.

Public debt limit.

"(2) Any amounts in the Fund which, solely by reason of the public debt limit, are not invested shall be invested by the Secretary of the Treasury as soon as such investments can be made without exceeding the public debt limit.

"(3) Upon expiration of the debt issuance suspension period, the Secretary of the Treasury shall immediately issue to the Fund obligations under chapter 31 of title 31 that (notwithstanding subsection (d) of this section) bear such interest rates and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of the Fund will replicate to the maximum extent practicable the obligations that would then be held by the Fund if the suspension of investment under paragraph (1) of this subsection, and any redemption or disinvestment under subsection (k) of this section for the purpose described in such paragraph, during such period had not occurred.

31 USC 3101 *et seq*.

"(4) On the first normal interest payment date after the expiration of any debt issuance suspension period, the Secretary of the Treasury shall pay to the Fund, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Secretary to be equal to the excess of—

Public debt limit.

"(A) the net amount of interest that would have been earned by the Fund during such debt issuance suspension period if—

"(i) amounts in the Fund that were not invested during such debt issuance suspension period solely by reason of the public debt limit had been invested, and

"(ii) redemptions and disinvestments with respect to the Fund which occurred during such debt issuance suspension period solely by reason of the public debt limit had not occurred, over

"(B) the net amount of interest actually earned by the Fund during such debt issuance suspension period.

"(5) For purposes of this subsection and subsections (k) and (l) of this section—

"(A) the term 'public debt limit' means the limitation imposed by section 3101(b) of title 31; and

"(B) the term 'debt issuance suspension period' means any period for which the Secretary of the Treasury determines for purposes of this subsection that the issuance of obligations of the United States may not be made without exceeding the public debt limit.".

(b) SALES AND REDEMPTIONS BY THE FUND.—Section 8348 of title 5, United States Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

Securities.
Public debt limit.

"(k)(1) Subject to paragraph (2) of this subsection, the Secretary of the Treasury may sell or redeem securities, obligations, or other invested assets of the Fund before maturity in order to prevent the public debt of the United States from exceeding the public debt limit.

"(2) The Secretary may sell or redeem securities, obligations, or other invested assets of the Fund under paragraph (1) of this subsection only during a debt issuance suspension period, and only to the extent necessary to obtain any amount of funds not exceeding the amount equal to the total amount of the payments authorized to be made from the Fund under the provisions of this subchapter or chapter 84 of this title or related provisions of law during such period. A sale or redemption may be made under this subsection even if, before the sale or redemption, there is a sufficient amount in the Fund to ensure that such payments are made in a timely manner.".

Ante, p. 516.

(c) REPORTS REGARDING THE OPERATION AND STATUS OF THE FUND.—Section 8348 of title 5, United States Code, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

Reports.

"(l)(1) The Secretary of the Treasury shall report to Congress on the operation and status of the Fund during each debt issuance suspension period for which the Secretary is required to take action under paragraph (3) or (4) of subsection (j) of this section. The report shall be submitted as soon as possible after the expiration of such period, but not later than the date that is 30 days after the first normal interest payment date occurring after the expiration of such period. The Secretary shall concurrently transmit a copy of such report to the Comptroller General of the United States.

Public debt limit.

"(2) Whenever the Secretary of the Treasury determines that, by reason of the public debt limit, the Secretary will be unable to fully comply with the requirements of subsection (c) of this section, the Secretary shall immediately notify Congress of the determination. The notification shall be made in writing.".

SEC. 6003. CHANGE IN METHOD BY WHICH REVENUE FOREGONE IS COMPUTED FOR CERTAIN CATEGORIES OF MAIL.

(a) In General.—Section 3626 of title 39, United States Code, is amended by adding at the end the following:

"(i)(1) As used in this subsection—

"(A) 'reduced-rate category' means any class of mail or kind of mailer for which a rate schedule is established under subsection (a) of this section; and

"(B) 'regular-rate category' means any class or kind of mail other than a class or kind referred to in section 2401(c) of this title.

"(2) This subsection shall be used in determining the costs recovered by revenues plus appropriations for the reduced-rate categories, for the purpose of distinguishing costs to be recovered from rates and fees for regular-rate categories under this chapter, and for the purpose of determining the appropriation requests under section 2401(c) of this title relating to the reduced-rate categories. It shall be assumed that the combination of postage and appropriations to be received for each of the reduced-rate categories will bear the same ratio to the costs attributed as required by section 3622(b)(3) of this title to such respective categories, as the revenues to be received from the most closely corresponding regular-rate category, as estimated in determining the rates for such category, bear to the costs attributed to that regular-rate category as required by section 3622(b)(3) of this title.".

(b) Conforming Amendment.—Section 2401(c) of title 39, United States Code, is amended by striking "3626" and inserting "3626(a)–(h)".

39 USC 3626 note.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1989, or on the effective date of the next general change in rates and fees under sections 3622 and 3625 of title 39, United States Code, whichever is sooner.

SEC. 6004. APPLICABILITY OF CERTAIN LIMITATIONS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) shall not apply with respect to any transfer of funds from the principal campaign committee of the incumbent candidate for the office of Representative who died on January 20, 1985, to the principal campaign committee of his surviving spouse, who was a candidate for such office.

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Subtitle B—Program Fraud Civil Remedies

Program Fraud Civil Remedies Act of 1986.
31 USC 3801 note.

SEC. 6101. SHORT TITLE.

This subtitle may be cited as the "Program Fraud Civil Remedies Act of 1986".

31 USC 3801 note.

SEC. 6102. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) false, fictitious, and fraudulent claims and statements in Government programs are a serious problem;

(2) false, fictitious, and fraudulent claims and statements in Government programs result in the loss of millions of dollars annually by allowing persons to receive Federal funds to which they are not entitled;

(3) false, fictitious, and fraudulent claims and statements in Government programs undermine the integrity of such programs by allowing ineligible persons to participate in such programs; and

(4) present civil and criminal remedies for such claims and statements are not sufficiently responsive.

(b) Purposes.—The purposes of this subtitle are—

(1) to provide Federal agencies which are the victims of false, fictitious, and fraudulent claims and statements with an administrative remedy to recompense such agencies for losses resulting from such claims and statements, to permit administrative proceedings to be brought against persons who make, present, or submit such claims and statements, and to deter the making, presenting, and submitting of such claims and statements in the future; and

(2) to provide due process protections to all persons who are subject to the administrative adjudication of false, fictitious, or fraudulent claims or statements.

SEC. 6103. PROVISION OF ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS.

(a) Establishment of Remedies.—Subtitle III of title 31, United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

"Sec.
"3801. Definitions.
"3802. False claims and statements; liability.
"3803. Hearing and determinations.
"3804. Subpoena authority.
"3805. Judicial review.
"3806. Collection of civil penalties and assessments.
"3807. Right to administrative offset.
"3808. Limitations.
"3809. Regulations.
"3810. Reports.
"3811. Effect on other law.
"3812. Prohibition against delegation.

"§ 3801. Definitions

31 USC 3801.

"(a) For purposes of this chapter—

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"(1) 'authority' means—

"(A) an executive department;

"(B) a military department;

"(C) an establishment (as such term is defined in section 11(2) of the Inspector General Act of 1978) which is not an executive department; and

5 USC app.

"(D) the United States Postal Service;

"(2) 'authority head' means—

"(A) the head of an authority; or

"(B) an official or employee of the authority designated, in regulations promulgated by the head of the authority, to act on behalf of the head of the authority;

"(3) 'claim' means any request, demand, or submission—

"(A) made to an authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

"(B) made to a recipient of property, services, or money from an authority or to a party to a contract with an authority—

"(i) for property or services if the United States—

"(I) provided such property or services;

"(II) provided any portion of the funds for the purchase of such property or services; or

"(III) will reimburse such recipient or party for the purchase of such property or services; or

"(ii) for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

"(I) provided any portion of the money requested or demanded; or

"(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

"(C) made to an authority which has the effect of decreasing an obligation to pay or account for property, services, or money,

except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1954; *Post*, p. 2095.

"(4) 'investigating official' means an individual who—

"(A)(i) in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, is the Inspector General of that authority or an officer or employee of such Office designated by the Inspector General; 5 USC app.

"(ii) in the case of an authority in which an Office of Inspector General is not established by the Inspector General Act of 1978 or by any other Federal law, is an officer or employee of the authority designated by the authority head to conduct investigations under section 3803(a)(1) of this title; or *Post*, p. 1939.

"(iii) in the case of a military department, is the Inspector General of the Department of Defense or an officer or employee of the Office of Inspector General of the Department of Defense who is designated by the Inspector General; and

"(B) who, if a member of the Armed Forces of the United

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States on active duty, is serving in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule; 5 USC 5331.

"(5) 'knows or has reason to know', for purposes of establishing liability under section 3802, means that a person, with respect to a claim or statement— *Post*, p. 1937.

"(A) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

"(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

"(C) acts in reckless disregard of the truth or falsity of the claim or statement,

and no proof of specific intent to defraud is required;

"(6) 'person' means any individual, partnership, corporation, association, or private organization;

"(7) 'presiding officer' means—

"(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, an administrative law judge appointed in the authority pursuant to section 3105 of such title or detailed to the authority pursuant to section 3344 of such title; or 5 USC 551 *et seq.*

"(B) in the case of an authority to which the provisions of such subchapter do not apply, an officer or employee of the authority who—

"(i) is selected under chapter 33 of title 5 pursuant to the competitive examination process applicable to administrative law judges; 5 USC 3301 *et seq.*

"(ii) is appointed by the authority head to conduct hearings under section 3803 of such title; *Post*, p. 1939.

"(iii) is assigned to cases in rotation so far as practicable;

"(iv) may not perform duties inconsistent with the duties and responsibilities of a presiding officer;

"(v) is entitled to pay prescribed by the Office of Personnel Management independently of ratings and recommendations made by the authority and in accordance with chapter 51 of such title and subchapter III of chapter 53 of such title; 5 USC 5101 *et seq.* 5 USC 5331 *et seq.*

"(vi) is not subject to performance appraisal pursuant to chapter 43 of such title; and 5 USC 4301 *et seq.*

"(vii) may be removed, suspended, furloughed, or reduced in grade or pay only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing by such Board;

"(8) 'reviewing official' means any officer or employee of an authority—

"(A) who is designated by the authority head to make the determination required under section 3803(a)(2) of this title;

"(B) who, if a member of the Armed Forces of the United States on active duty, is serving in grade O–7 or above or, if a civilian employee, is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS–16 under the General Schedule; and 5 USC 5331.

"(C) who is—

"(i) not subject to supervision by, or required to report to, the investigating official; and

"(ii) not employed in the organizational unit of the authority in which the investigating official is employed; and

"(9) 'statement' means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

"(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

"(B) with respect to (including relating to eligibility for)—

"(i) a contract with, or a bid or proposal for a contract with; or

(ii) a grant, loan, or benefit from,

an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit,

except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1954. *Post*, p. 2095.

"(b) For purposes of paragraph (3) of subsection (a)—

"(1) each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim;

"(2) each claim for property, services, or money is subject to this chapter regardless of whether such property, services, or money is actually delivered or paid; and

"(3) a claim shall be considered made, presented, or submitted to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority, recipient, or party.

"(c) For purposes of paragraph (9) of subsection (a)—

"(1) each written representation, certification, or affirmation constitutes a separate statement; and

"(2) a statement shall be considered made, presented, or submitted to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

31 USC 3802.

"§ 3802. False claims and statements; liability

"(a)(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know—

"(A) is false, fictitious, or fraudulent;

"(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

"(C) includes or is supported by any written statement that—

"(i) omits a material fact;

"(ii) is false, fictitious, or fraudulent as a result of such omission; and

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"(iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or

"(D) is for payment for the provision of property or services which the person has not provided as claimed,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence.

"(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that—

"(A) the person knows or has reason to know—

"(i) asserts a material fact which is false, fictitious, or fraudulent; or

"(ii)(I) omits a material fact; and

"(II) is false, fictitious, or fraudulent as a result of such omission;

"(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and

"(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than $5,000 for each such statement.

"(3) An assessment shall not be made under the second sentence of paragraph (1) with respect to a claim if payment by the Government has not been made on such claim.

"(b)(1) Except as provided in paragraphs (2) and (3) of this subsection—

Post, p. 1939.

"(A) a determination under section 3803(a)(2) of this title that there is adequate evidence to believe that a person is liable under subsection (a) of this section; or

"(B) a determination under section 3803 of this title that a person is liable under subsection (a) of this section,

Contracts.

may provide the authority with grounds for commencing any administrative or contractual action against such person which is authorized by law and which is in addition to any action against such person under this chapter.

"(2) A determination referred to in paragraph (1) of this subsection may be used by the authority, but shall not require such authority, to commence any administrative or contractual action which is authorized by law.

"(3) In the case of an administrative or contractual action to suspend or debar any person who is eligible to enter into contracts with the Federal Government, a determination referred to in paragraph (1) of this subsection shall not be considered as a conclusive determination of such person's responsibility pursuant to Federal procurement laws and regulations.

"§ 3803. Hearing and determinations

31 USC 3803.

Reports.
Ante, p. 1937.

"(a)(1) The investigating official of an authority may investigate allegations that a person is liable under section 3802 of this title and shall report the findings and conclusions of such investigation to the reviewing official of the authority. The preceding sentence does not modify any responsibility of an investigating official to report violations of criminal law to the Attorney General.

"(2) If the reviewing official of an authority determines, based upon the report of the investigating official under paragraph (1) of this subsection, that there is adequate evidence to believe that a person is liable under section 3802 of this title, the reviewing official shall transmit to the Attorney General a written notice of the intention of such official to refer the allegations of such liability to a presiding officer of such authority. Such notice shall include—

"(A) a statement of the reasons of the reviewing official for the referral of such allegations;

"(B) a statement specifying the evidence which supports such allegations;

"(C) a description of the claims or statements for which liability under section 3802 of this title is alleged;

"(D) an estimate of the amount of money or the value of property or services requested or demanded in violation of section 3802 of this title; and

"(E) a statement of any exculpatory or mitigating circumstances which may relate to such claims or statements.

"(b)(1) Within 90 days after receipt of a notice from a reviewing official under paragraph (2) of subsection (a), the Attorney General or an Assistant Attorney General designated by the Attorney General shall transmit a written statement to the reviewing official which specifies—

"(A) that the Attorney General or such Assistant Attorney General approves or disapproves the referral to a presiding officer of the allegations of liability stated in such notice;

"(B) in any case in which the referral of allegations is approved, that the initiation of a proceeding under this section with respect to such allegations is appropriate; and

"(C) in any case in which the referral of allegations is disapproved, the reasons for such disapproval.

"(2) A reviewing official may refer allegations of liability to a presiding officer only if the Attorney General or an Assistant Attorney General designated by the Attorney General approves the referral of such allegations in a written statement described in paragraph (1) of this subsection.

"(3) If the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to an authority head a written finding that the continuation of any hearing under this section with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, such hearing shall be immediately stayed and may be resumed only upon written authorization of the Attorney General.

"(c)(1) No allegations of liability under section 3802 of this title with respect to any claim made, presented, or submitted by any person shall be referred to a presiding officer under paragraph (2) of subsection (b) if the reviewing official determines that—

"(A) an amount of money in excess of $150,000; or

Ante, p. 1937.

100 STAT. 1940

"(B) property or services with a value in excess of $150,000, is requested or demanded in violation of section 3802 of this title in such claim or in a group of related claims which are submitted at the time such claim is submitted.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, no allegations of liability against an individual under section 3802 of this title with respect to any claim or statement made, presented, or submitted, or caused to be made, presented, or submitted, by such individual relating to any benefits received by such individual shall be referred to a presiding officer under paragraph (2) of subsection (b).

"(B) Allegations of liability against an individual under section 3802 of this title with respect to any claim or statement made, presented, or submitted, or caused to be made, presented, or submitted, by such individual relating to any benefits received by such individual may be referred to a presiding officer under paragraph (2) of subsection (b) if—

"(i) such claim or statement is made by such individual in making application for such benefits;

"(ii) such allegations relate to the eligibility of such individual to receive such benefits; and

"(iii) with respect to such claim or statement, the individual—

"(I) has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

"(II) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

"(III) acts in reckless disregard of the truth or falsity of the claim or statement.

"(C) For purposes of this subsection, the term 'benefits' means—

"(i) benefits under the supplemental security income program under title XVI of the Social Security Act; 42 USC 1381.

"(ii) old age, survivors, and disability insurance benefits under title II of the Social Security Act; 42 USC 401.

"(iii) benefits under title XVIII of the Social Security Act; 42 USC 1395.

"(iv) aid to families with dependent children under a State plan approved under section 402(a) of the Social Security Act; 42 USC 602.

"(v) medical assistance under a State plan approved under section 1902(a) of the Social Security Act; 42 USC 1396a.

"(vi) benefits under title XX of the Social Security Act; 42 USC 1397.

"(vii) benefits under the food stamp program (as defined in section 3(h) of the Food Stamp Act of 1977); 7 USC 2012.

"(viii) benefits under chapters 11, 13, 15, 17, and 21 of title 38; 38 USC 301 *et seq.*, 40 *et seq.*, 501 *et seq.*, 601 *et seq.*, 801 *et seq.*

"(ix) benefits under the Black Lung Benefits Act;

"(x) benefits under the special supplemental food program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966; 42 USC 1786.

"(xi) benefits under section 336 of the Older Americans Act; 42 USC 3030f.

"(xii) any annuity or other benefit under the Railroad Retirement Act of 1974; 45 USC 231t.

"(xiii) benefits under the National School Lunch Act; 42 USC 1751 note.

"(xiv) benefits under any housing assistance program for lower income families or elderly or handicapped persons which is administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture;

"(xv) benefits under the Low-Income Home Energy Assistance Act of 1981; and 42 USC 8621 note.

"(xvi) benefits under part A of the Energy Conservation in Existing Buildings Act of 1976, 42 USC 6861.

100 STAT. 1941

which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

"(d)(1) On or after the date on which a reviewing official is permitted to refer allegations of liability to a presiding officer under subsection (b) of this section, the reviewing official shall mail, by registered or certified mail, or shall deliver, a notice to the person alleged to be liable under section 3802 of this title. Such notice shall specify the allegations of liability against such person and shall state the right of such person to request a hearing with respect to such allegations.

Ante, p. 1937.

"(2) If, within 30 days after receiving a notice under paragraph (1) of this subsection, the person receiving such notice requests a hearing with respect to the allegations contained in such notice—

"(A) the reviewing official shall refer such allegations to a presiding officer for the commencement of such hearing; and

"(B) the presiding officer shall commence such hearing by mailing by registered or certified mail, or by delivery of, a notice which complies with paragraphs (2)(A) and (3)(B)(i) of subsection (g) to such person.

Records.

"(e)(1)(A) Except as provided in subparagraph (B) of this paragraph, at any time after receiving a notice under paragraph (2)(B) of subsection (d), the person receiving such notice shall be entitled to review, and upon payment of a reasonable fee for duplication, shall be entitled to obtain a copy of, all relevant and material documents, transcripts, records, and other materials, which relate to such allegations and upon which the findings and conclusions of the investigating official under paragraph (1) of subsection (a) are based.

"(B) A person is not entitled under subparagraph (A) to review and obtain a copy of any document, transcript, record, or material which is privileged under Federal law.

"(2) At any time after receiving a notice under paragraph (2)(B) of subsection (d), the person receiving such notice shall be entitled to obtain all exculpatory information in the possession of the investigating official or the reviewing official relating to the allegations contained in such notice. The provisions of subparagraph (B) of paragraph (1) do not apply to any document, transcript, record, or other material, or any portion thereof, in which such exculpatory information is contained.

Records.

"(f) Any hearing commenced under paragraph (2) of subsection (d) shall be conducted by the presiding officer on the record in order to determine—

"(1) the liability of a person under section 3802 of this title; and

"(2) if a person is determined to be liable under such section, the amount of any civil penalty or assessment to be imposed on such person.

Any such determination shall be based on the preponderance of the evidence.

"(g)(1) Each hearing under subsection (f) of this section shall be conducted—

"(A) in the case of an authority to which the provisions of subchapter II of chapter 5 of title 5 apply, in accordance with—

5 USC 551 *et seq.*

"(i) the provisions of such subchapter to the extent that such provisions are not inconsistent with the provisions of this chapter; and

100 STAT. 1942

"(ii) procedures promulgated by the authority head under paragraph (3) of this subsection; or

"(B) in the case of an authority to which the provisions of such subchapter do not apply, in accordance with procedures promulgated by the authority head under paragraphs (2) and (3) of this subsection.

Regulations.

"(2) An authority head of an authority described in subparagraph (B) of paragraph (1) shall by regulation promulgate procedures for the conduct of hearings under this chapter. Such procedures shall include:

"(A) The provision of written notice of the hearing to any person alleged to be liable under section 3802 of this title, including written notice of—

Ante, p. 1937.

"(i) the time, place, and nature of the hearing;

"(ii) the legal authority and jurisdiction under which the hearing is to be held; and "(iii) the matters of facts and law to be asserted.

"(B) The provision to any person alleged to be liable under section 3802 of this title of opportunities for the submission of facts, arguments, offers of settlement, or proposals of adjustment.

"(C) Procedures to ensure that the presiding officer shall not, except to the extent required for the disposition of ex parte matters as authorized by law—

"(i) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to the hearing to participate; or

"(ii) be responsible to or subject to the supervision or direction of the investigating official or the reviewing official.

"(D) Procedures to ensure that the investigating official and the reviewing official do not participate or advise in the decision required under subsection (h) of this section or the review of the decision by the authority head under subsection (i) of this section, except as provided in subsection (j) of this section.

"(E) The provision to any person alleged to be liable under section 3802 of this title of opportunities to present such person's case through oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

"(F) Procedures to permit any person alleged to be liable under section 3802 of this title to be accompanied, represented, and advised by counsel or such other qualified representative as the authority head may specify in such regulations.

"(G) Procedures to ensure that the hearing is conducted in an impartial manner, including procedures to—

"(i) permit the presiding officer to at any time disqualify himself; and

"(ii) permit the filing, in good faith, of a timely and sufficient affidavit alleging personal bias or another reason for disqualification of a presiding officer or a reviewing official.

Regulations.

"(3)(A) Each authority head shall promulgate by regulation procedures described in subparagraph (B) of this paragraph for the conduct of hearings under this chapter. Such procedures shall be in addition to the procedures described in paragraph (1) or paragraph (2) of this subsection, as the case may be.

"(B) The procedures referred to in subparagraph (A) of this paragraph are:

Ante, p. 1937.

"(i) Procedures for the inclusion, in any written notice of a hearing under this section to any person alleged to be liable under section 3802 of this title, of a description of the procedures for the conduct of the hearing.

Records.

"(ii) Procedures to permit discovery by any person alleged to be liable under section 3802 of this title only to the extent that the presiding officer determines that such discovery is necessary for the expeditious, fair, and reasonable consideration of the issues, except that such procedures shall not apply to documents, transcripts, records, or other material which a person is entitled to review under paragraph (1) of subsection (e) or to information to which a person is entitled under paragraph (2) of such subsection. Procedures promulgated under this clause shall prohibit the discovery of the notice required under subsection (a)(2) of this section.

"(4) Each hearing under subsection (f) of this section shall be held—

"(A) in the judicial district of the United States in which the person alleged to be liable under section 3802 of this title resides or transacts business;

"(B) in the judicial district of the United States in which the claim or statement upon which the allegation of liability under such section was made, presented, or submitted; or

"(C) in such other place as may be agreed upon by such person and the presiding officer who will conduct such hearing.

"(h) The presiding officer shall issue a written decision, including findings and determinations, after the conclusion of the hearing. Such decision shall include the findings of fact and conclusions of law which the presiding officer relied upon in determining whether a person is liable under this chapter. The presiding officer shall promptly send to each party to the hearing a copy of such decision and a statement describing the right of any person determined to be liable under section 3802 of this title to appeal the decision of the presiding officer to the authority head under paragraph (2) of subsection (i).

"(i)(1) Except as provided in paragraph (2) of this subsection and section 3805 of this title, the decision, including the findings and determinations, of the presiding officer issued under subsection (h) of this section are final.

Post, p. 1944.

"(2)(A)(i) Except as provided in clause (ii) of this subparagraph, within 30 days after the presiding officer issues a decision under subsection (h) of this section, any person determined in such decision to be liable under section 3802 of this title may appeal such decision to the authority head.

"(ii) If, within the 30-day period described in clause (i) of this subparagraph, a person determined to be liable under this chapter requests the authority head for an extension of such 30-day period to file an appeal of a decision issued by the presiding officer under subsection (h) of this section, the authority head may extend such period if such person demonstrates good cause for such extension.

"(B) Any authority head reviewing under this section the decision, findings, and determinations of a presiding officer shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (f) of this section unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand the matter to the presiding officer for consideration of such additional evidence.

100 STAT. 1944

"(C) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the presiding officer pursuant to this section. The authority head shall promptly send to each party to the appeal a copy of the decision of the authority head and a statement describing the right of any person determined to be liable under section 3802 of this title to judicial review under section 3805 of this title.

Ante, p. 1937.
Infra.

"(j) The reviewing official has the exclusive authority to compromise or settle any allegations of liability under section 3802 of this title against a person without the consent of the presiding officer at any time after the date on which the reviewing official is permitted to refer allegations of liability to a presiding officer under subsection (b) of this section and prior to the date on which the presiding officer issues a decision under subsection (h) of this section. Any such compromise or settlement shall be in writing.

"§ 3804. Subpoena authority

31 USC 3804.

"(a) For the purposes of an investigation under section 3803(a)(1) of this title, an investigating official is authorized to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and data not otherwise reasonably available to the authority.

Records.
Reports.
Ante, p. 1939.

"(b) For the purposes of conducting a hearing under section 3803(f) of this title, a presiding officer is authorized—

"(1) to administer oaths or affirmations; and

"(2) to require by subpoena the attendance and testimony of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence which the presiding officer considers relevant and material to the hearing.

"(c) In the case of contumacy or refusal to obey a subpoena issued pursuant to subsection (a) or (b) of this section, the district courts of the United States shall have jurisdiction to issue an appropriate order for the enforcement of any such subpoena. Any failure to obey such order of the court is punishable by such court as contempt. In any case in which an authority seeks the enforcement of a subpoena issued pursuant to subsection (a) or (b) of this section, the authority shall request the Attorney General to petition any district court in which a hearing under this chapter is being conducted, or in which the person receiving the subpoena resides or conducts business, to issue such an order.

31 USC 3805.

"§ 3805. Judicial review

"(a)(1) A determination by a reviewing official under section 3803 of this title shall be final and shall not be subject to judicial review.

"(2) Unless a petition is filed under this section, a determination under section 3803 of this title that a person is liable under section 3802 of this title shall be final and shall not be subject to judicial review.

100 STAT. 1945

Ante, pp. 1937, 1939.

"(b)(1)(A) Any person who has been determined to be liable under section 3802 of this title pursuant to section 3803 of this title may obtain review of such determination in—

"(i) the United States district court for the district in which such person resides or transacts business;

"(ii) the United States district court for the district in which the claim or statement upon which the determination of liability is based was made, presented, or submitted; or

"(iii) the United States District Court for the District of Columbia.

"(B) Such review may be obtained by filing in any such court a written petition that such determination be modified or set aside. Such petition shall be filed—

"(i) only after such person has exhausted all administrative remedies under this chapter; and

"(ii) within 60 days after the date on which the authority head sends such person a copy of the decision of such authority head under section 3803(i)(2) of this title.

Records.

"(2) The clerk of the court shall transmit a copy of a petition filed under paragraph (1) of this subsection to the authority and to the Attorney General. Upon receipt of the copy of such petition, the authority shall transmit to the Attorney General the record in the proceeding resulting in the determination of liability under section 3802 of this title. Except as otherwise provided in this section, the district courts of the United States shall have jurisdiction to review the decision, findings, and determinations in issue and to affirm, modify, remand for further consideration, or set aside, in whole or in part, the decision, findings, and determinations of the authority, and to enforce such decision, findings, and determinations to the extent that such decision, findings, and determinations are affirmed or modified.

Records.

"(c) The decisions, findings, and determinations of the authority with respect to questions of fact shall be final and conclusive, and shall not be set aside unless such decisions, findings, and determinations are found by the court to be unsupported by substantial evidence. In concluding whether the decisions, findings, and determinations of an authority are unsupported by substantial evidence, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(d) Any district court reviewing under this section the decision, findings, and determinations of an authority shall not consider any objection that was not raised in the hearing conducted pursuant to section 3803(f) of this title unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the court shall remand the matter to the authority for consideration of such additional evidence.

"(e) Upon a final determination by the district court that a person is liable under section 3802 of this title, the court shall enter a final judgment for the appropriate amount in favor of the United States.

"§ 3806. Collection of civil penalties and assessments 31 USC 3806.

"(a) The Attorney General shall be responsible for judicial enforcement of any civil penalty or assessment imposed pursuant to the provisions of this chapter.

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"(b) Any penalty or assessment imposed in a determination which has become final pursuant to this chapter may be recovered in a civil action brought by the Attorney General. In any such action, no matter that was raised or that could have been raised in a hearing conducted under section 3803(f) of this title or pursuant to judicial *Ante*, p. 1939. review under section 3805 of this title may be raised as a defense, *Ante*, p. 1944. and the determination of liability and the determination of amounts of penalties and assessments shall not be subject to review.

"(c) The district courts of the United States shall have jurisdiction of any action commenced by the United States under subsection (b) of this section.

"(d) Any action under subsection (b) of this section may, without regard to venue requirements, be joined and consolidated with or asserted as a counterclaim, cross-claim, or setoff by the United States in any other civil action which includes as parties the United States and the person against whom such action may be brought.

"(e) The United States Claims Court shall have jurisdiction of any action under subsection (b) of this section to recover any penalty or assessment if the cause of action is asserted by the United States as a counterclaim in a matter pending in such court.

"(f) The Attorney General shall have exclusive authority to compromise or settle any penalty or assessment the determination of which is the subject of a pending petition pursuant to section 3805 of this title or a pending action to recover such penalty or assessment pursuant to this section.

"(g)(1) Except as provided in paragraph (2) of this subsection, any amount of penalty or assessment collected under this chapter shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(2)(A) Any amount of a penalty or assessment imposed by the United States Postal Service under this chapter shall be deposited in the Postal Service Fund established by section 2003 of title 39.

"(B) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with old age and survivors benefits under title II of the Social Security Act shall be 42 USC 401. deposited in the Federal Old-Age and Survivors Insurance Trust Fund.

"(C) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with disability benefits under title II of the Social Security Act shall be deposited in the Federal Disability Insurance Trust Fund.

"(D) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with benefits under part A of title XVIII of the Social Security Act shall be 42 USC 1395c. deposited in the Federal Hospital Insurance Trust Fund.

42 USC 1395j.

"(E) Any amount of a penalty or assessment imposed by the Secretary of Health and Human Services under this chapter with respect to a claim or statement made in connection with benefits under part B of title XVIII of the Social Security Act shall be deposited in the Federal Supplementary Medical Insurance Trust Fund.

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31 USC 3807.

"§ 3807. Right to administrative offset

Taxes.
Ante, p. 1939.
Ante, pp. 1944, 1945.

"(a) The amount of any penalty or assessment which has become final under section 3803 of this title, or for which a judgment has been entered under section 3805(e) or 3806 of this title, or any amount agreed upon in a settlement or compromise under section 3803(j) or 3806(f) of this title, may be collected by administrative offset under section 3716 of this title, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the person liable for such penalty or assessment.

"(b) All amounts collected pursuant to this section shall be remitted to the Secretary of the Treasury for deposit in accordance with section 3806(g) of this title.

31 USC 3808.
Claims.

"§ 3808. Limitations

"(a) A hearing under section 3803(d)(2) of this title with respect to a claim or statement shall be commenced within 6 years after the date on which such claim or statement is made, presented, or submitted.

"(b) A civil action to recover a penalty or assessment under section 3806 of this title shall be commenced within 3 years after the date on which the determination of liability for such penalty or assessment becomes final.

5 USC app.

"(c) If at any time during the course of proceedings brought pursuant to this chapter the authority head receives or discovers any specific information regarding bribery, gratuities, conflict of interest, or other corruption or similar activity in relation to a false claim or statement, the authority head shall immediately report such information to the Attorney General, and in the case of an authority in which an Office of Inspector General is established by the Inspector General Act of 1978 or by any other Federal law, to the Inspector General of that authority.

31 USC 3809.

"§ 3809. Regulations

"Within 180 days after the date of enactment of this chapter, each authority head shall promulgate rules and regulations necessary to implement the provisions of this chapter. Such rules and regulations shall—

> "(1) ensure that investigating officials and reviewing officials are not responsible for conducting the hearing required in section 3803(f) of this title, making the determinations required by subsections (f) and (h) of section 3803 of this title, or making collections under section 3806 of this title; and
>
> "(2) require a reviewing official to include in any notice required by section 3803(a)(2) of this title a statement which specifies that the reviewing official has determined that there is a reasonable prospect of collecting, from a person with respect to whom the reviewing official is referring allegations of liability in such notice, the amount for which such person may be liable.

31 USC 3810.

"§ 3810. Reports

"Not later than October 31 of each year, each authority head shall prepare and transmit to the appropriate committees and subcommittees of the Congress an annual report summarizing actions

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taken under this chapter during the most recent 12-month period ending the previous September 30. Such report shall include—

"(1) a summary of matters referred by the investigating official of the authority to the reviewing official of the authority under section 3803(a)(1) of this title during such period; *Ante*, p. 1939.

"(2) a summary of matters transmitted to the Attorney General under section 3803(a)(2) of this title during such period;

"(3) a summary of all hearings conducted by presiding officers under section 3803(f) of this title, and the results of such hearings, during such period; and

"(4) a summary of the actions taken during such period to collect any civil penalty or assessment imposed under this chapter.

"§ 3811. Effect on other law

31 USC 3811.

"(a) This chapter does not diminish the responsibility of any agency to comply with the provisions of chapter 35 of title 44. 44 USC 3501 *et seq.*

"(b) This chapter does not supersede the provisions of section 3512 of title 44.

"(c) For purposes of this section, the term 'agency' has the same meaning as in section 3502(1) of title 44.

"§ 3812. Prohibition against delegation

31 USC 3812.

"Any function, duty, or responsibility which this chapter specifies be carried out by the Attorney General or an Assistant Attorney General designated by the Attorney General, shall not be delegated to, or carried out by, any other officer or employee of the Department of Justice.".

(b) TECHNICAL AMENDMENT.—The table of chapters for subtitle III of title 31, United States Code, is amended by inserting after the item relating to chapter 37 the following new item:

"38. Administrative Remedies for False Claims and Statements........................ 3801".

(c) CONFORMING AMENDMENTS.—Section 504(b)(1)(C) of title 5, United States Code, is amended—

(1) by striking out "and" before "(ii)"; and

(2) by inserting before the semicolon a comma and "and (iii) any hearing conducted under chapter 38 of title 31". *Ante*, p. 1934.

SEC. 6104. EFFECTIVE DATE.

31 USC 3801 note.

This subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act, and shall apply to any claim or statement made, presented, or submitted on or after such date.

TITLE VII—FISCAL PROCEDURES

SEC. 7001. COST-OF-LIVING ADJUSTMENTS IN CERTAIN FEDERAL BENEFITS.

2 USC 907 note.

(a) IN GENERAL.—Benefits which are payable in calendar year 1987, 1988, 1989, 1990, or 1991, under programs listed in section 257(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), including any cost-of-living adjustment in such benefits, shall not be subject to modification, suspension, or reduction in such calendar year pursuant to a Presidential order issued under such Act. 2 USC 907.

100 STAT. 1949

(b) DEFINITION.—For purposes of this section, the term "cost-of-living adjustment" means any increase or change in the amount of a benefit or in standards relating to such benefit under any provision of Federal law which requires such increase or change as a result of any change in the Consumer Price Index (or any component thereof) or any other index which measures costs, prices, or wages.

SEC. 7002. EXEMPT PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Section 255(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)) is amended by inserting after the item relating to Compensation of the President the following new item:

"Dual benefits payments account (60-0111-0-1-601);".

2 USC 905 note.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1986.

SEC. 7003. COMPUTATION OF RETIREMENT ANNUITY FOR PART-TIME EMPLOYMENT.

38 USC 4109.

(a)(1) Subsection (b) of section 15204 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272; 100 Stat. 335) is repealed.

(2) The provision of title 38, United States Code, that was repealed by such subsection is revived.

5 USC 8339 note.

(b) Subsection (c) of section 15204 of such Act is redesignated as subsection (b).

Effective date.
38 USC 4109 note.

(c) This section is effective with respect to individuals who retire after September 19, 1986.

SEC. 7004. REVENUE SHARING PAYMENTS.

31 USC 6701 *et seq.*

Notwithstanding section 6702(b) of title 31, United States Code, the Secretary of the Treasury shall make the installment payment of revenue sharing funds under chapter 67 of such title that is otherwise required to be paid on or before October 5, 1986, by no later than September 30, 1986.

SEC. 7005. HIGHER EDUCATION SAVINGS.

Ante, p. 1268.

For the purpose of complying with the instructions set forth in the concurrent resolution on the budget for the fiscal year 1987 (S. Con. Res. 120, 99th Congress, agreed to June 27, 1986), the provisions of the bill, S. 1965, as passed by the House of Representatives on September 24, 1986, as passed by the Senate on September 25, 1986, and submitted to the President, shall be treated as if they were included in this Act.

SEC. 7006. MISCELLANEOUS.

Ante, p. 390.

(a) Section 20001(d) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking out "(1)(A) above if" in paragraph (2) and inserting in lieu thereof "paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that";

(2) by striking out "it is designed to mitigate the" in clause (A of such paragraph and inserting in lieu thereof "the provision mitigates";

(3) by striking out "it" in clause (B) of such paragraph and inserting in lieu thereof "the provision"; and

(4) by adding at the end thereof the following new paragraph.

"(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.".

Ante, p. 390.

(b) Section 20001(c) of such Act is amended by striking out "January 2, 1987" and inserting in lieu thereof "January 2, 1988".

(c) Senate Resolution 286 (99th Congress, 2d Session) is amended by striking "section 1201" each place it appears and inserting in lieu thereof "section 20001".

SEC. 7007. MODIFICATION OF TITLE III, PART B, HIGHER EDUCATION ACT ALLOCATION FORMULA.

20 USC 1063.

Section 324 of the Higher Education Act (as amended by the Higher Education Amendments of 1986) is amended—

Ante, p. 1296.

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

"(d) MINIMUM ALLOTMENT.—(1) Notwithstanding subsections (a), (b), and (c), the amount allotted to each part B institution under this section shall not be less than $350,000.

"(2) If the amount appropriated pursuant to section 360(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).''; and

Ante, p. 1307.

(3) by striking out "subsection (a), (b), or (c)" in subsection (e) (as redesignated by paragraph (1) of this subsection) and inserting in lieu thereof "subsection (a), (b), (c), or (d)"; and

(4) by amending subsection (c) to read as follows:

"(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions."

Minorities.

SEC. 7008. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS.

Notwithstanding any other provision of law or other requirement, the City of Boston in the State of Massachusetts is authorized to retain any land disposition proceeds from the financially closed-out Government Center Urban Renewal Project (NO MASS. R-35) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Boston shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

Massachusetts.

100 STAT. 1951

42 USC 5301.

TITLE VIII—REVENUES, TRADE, AND RELATED PROGRAMS

Subtitle A—Revenue Provisions

PART I—INCREASES IN CERTAIN PENALTIES

SEC. 8001. INCREASE IN PENALTY FOR UNDERPAYMENTS OF TAX DEPOSITS.

(a) IN GENERAL.—Subsection (a) of section 6656 of the Internal Revenue Code of 1954 (relating to underpayment of deposits) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

Post, p. 2095; 26 USC 6656.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

26 USC 6656 note.

SEC. 8002. INCREASE IN PENALTY FOR SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

26 USC 6661.

(a) In General.—Subsection (a) of section 6661 of the Internal Revenue Code of 1954 (relating to substantial understatement of liability) is amended to read as follows:

"(a) Addition to Tax.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 25 percent of the amount of any underpayment attributable to such understatement."

26 USC 6661 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply to penalties assessed after the date of the enactment of this Act.

26 USC 6661, 6661 note.
Post, p. 2743.

(c) Repeal of Increase in Penalty by Tax Reform Act of 1986.—Section 1504 of the Tax Reform Act of 1986 (relating to increase in penalty for substantial understatement of liability) is hereby repealed.

PART II—CERTAIN EXCISE TAX DEPOSITS ACCELERATED

SEC. 8011. CERTAIN EXCISE TAX DEPOSITS ACCELERATED.

(a) Tobacco.—

(1) In general.—Paragraph (2) of section 5703(b) of the Internal Revenue Code of 1954 (relating to method of payment of tax) is amended to read as follows:

Post, p. 2095;
26 USC 5703.

"(2) Time for payment of taxes.—

"(A) In general.—Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

100 STAT. 1952

"(B) Imported articles.—In the case of tobacco products and cigarette papers and tubes which are imported into the United States—

"(i) In general.—The last day for payment of tax shall be the 14th day after the date on which the article is entered into the customs territory of the United States.

"(ii) Special rule for entry for warehousing.—Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the date on which the article is removed from the 1st such warehouse.

"(iii) Foreign trade zones.—Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

"(iv) Exception for articles destined for export.—Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

"(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico.—In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the date on which the article is brought into the United States.

"(D) Special rule where 14th day falls on Saturday, Sunday, or holiday.—Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(2) Technical amendment.—Subsection (c) of section 5704 of such Code (relating to tobacco products and cigarette papers and tubes released in bond from customs custody) is amended by striking out "to a manufacturer of tobacco products or cigarette papers and tubes or".

(b) Distilled Spirits, Wines, and Beer.—

(1) In general.—Subsection (d) of section 5061 of such Code (relating to method of collecting tax) is amended to read as follows:

"(d) Time for Collecting Tax on Distilled Spirits, Wines, and Beer.—

"(1) In general.—Except as otherwise provided in this subsection, in the case of distilled spirits, wines, and beer to which this part applies (other than subsection (b) of this section) which are withdrawn under bond for deferred payment of tax, the last day for payment of such tax shall be the 14th day after the last day of the semimonthly period during which the withdrawal occurs.

"(2) Imported articles.—In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers)—

"(A) In general.—The last day for payment of tax shall be the 14th day after the date on which the article is entered into the customs territory of the United States.

"(B) Special rule for entry for warehousing.—Except as provided in subparagraph (D), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the date on which the article is removed from the 1st such warehouse.

"(C) Foreign trade zones.—Except as provided in subparagraph (D) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

"(D) Exception for articles destined for export.—Subparagraphs (B) and (C) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

"(3) Distilled spirits, wines, and beer brought into the United States from Puerto Rico.—In the case of distilled spirits, wines, and beer which are brought into the United States (other than in bulk containers) from Puerto Rico, the last day for payment of tax shall be the 14th day after the date on which the article is brought into the United States.

"(4) Special rule where 14th day falls on Saturday, Sunday, or holiday.—Notwithstanding section 7503, if, but for this paragraph, the due date under this subsection for payment of tax would fall on a Saturday, Sunday, or a legal holiday (within the meaning of section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday."

(2) Technical amendment.—Paragraph (2) of section 5054(a) of such Code (relating to determination and collection of tax on beer) is amended by striking out all that follows "or," and inserting in lieu thereof "if entered for warehousing, at the time of removal from the 1st such warehouse".

(c) Effective Dates.—

26 USC 5061 note.

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to removals during semimonthly periods ending on or after December 31, 1986.

26 USC 5703.

(2) Imported articles, etc.—Subparagraphs (B) and (C) of section 5703(b)(2) of the Internal Revenue Code of 1954 (as added by this section), paragraphs (2) and (3) of section 5061(d) of such Code (as amended by this section), and the amendments made by subsections (a)(2) and (b)(2) shall apply to articles imported, entered for warehousing, or brought into the United States or a foreign trade zone after December 15, 1986.

(3) Special rule for distilled spirits and tobacco for semimonthly period ending December 15, 1986.—With respect to remittances of—

(A) taxes imposed on distilled spirits by section 5001 or 7652 of such Code, and

(B) taxes imposed on tobacco products and cigarette papers and tubes by section 5701 or 7652 of such Code,

for the semimonthly period ending December 15, 1986, the last day for payment of such remittances shall be January 14, 1987.

26 USC 5701.

(4) Treatment of smokeless tobacco in inventory on June 30, 1986.—The tax imposed by section 5701(e) of the Internal Revenue Code of 1954 shall not apply to any smokeless tobacco which—

(A) on June 30, 1986, was in the inventory of the manufacturer or importer, and

(B) on such date was in a form ready for sale.

PART III—TAX TREATMENT OF CONRAIL PUBLIC SALE

45 USC 1347.

SEC. 8021. TAX TREATMENT OF CONRAIL PUBLIC SALE.

(a) Treatment as New Corporation.—

Post, p. 2095.

(1) In general.—For periods after the public sale, for purposes of the Internal Revenue Code of 1954, Conrail shall be treated as a new corporation which purchased all of its assets as of the beginning of the day after the date of the public sale for an amount equal to the deemed purchase price.

26 USC 338.

(2) Allocation among assets.—The deemed purchase price shall be allocated among the assets of Conrail in accordance with the temporary regulations prescribed under section 338 of the Internal Revenue Code of 1954 (as such regulations were in effect on the date of the enactment of this Act). The Secretary shall establish specific guidelines for carrying out the preceding sentence so that the basis of each asset will be clearly ascertainable. For purposes of applying the regulations referred to in the first sentence, accounts receivable and materials and supplies shall be treated as cash equivalents.

(3) Deemed purchase price.—For purposes of this subsection, the deemed purchase price is an amount equal to the gross amount received pursuant to the public sale, multiplied by a fraction—

(A) the numerator of which is 100 percent, and

Securities.

(B) the denominator of which is the percentage (by value) of the stock of Conrail sold in the public sale.

The amount determined under the preceding sentence shall be adjusted under regulations prescribed by the Secretary for liabilities of Conrail and other relevant items.

(b) No Income From Cancellation of Debt or Preferred Stock.—No amount shall be included in the gross income of any person by reason of any cancellation of any obligation (or preferred stock) of Conrail in connection with the public sale.

(c) Disallowance of Certain Deductions.—No deduction shall be allowed to Conrail for any amount which is paid after the date of the public sale to employees of Conrail for services performed on or before the date of the public sale.

(d) **Waiver of Certain Employee Stock Ownership Plan Provisions.**—For purposes of determining whether the employee stock ownership plans of Conrail meet the qualifications of sections 401 and 501 of the Internal Revenue Code of 1954— 26 USC 401, 501.

(1) the limits of section 415 of such Code (relating to limitations on benefits and contributions under qualified plans) shall not apply with respect to interests in stock transferred pursuant to this Act or a law heretofore enacted, and

(2) the 2-year waiting period for withdrawals shall not apply to withdrawals of amounts (or shares) in participants accounts in connection with the public sale.

(e) **Definitions.**—For purposes of this section—

(1) **Conrail.**—The term "Conrail" means the Consolidated Rail Corporation. Such term includes any corporation which was a subsidiary of Conrail immediately before the public sale.

(2) **Public sale.**—The term "public sale" means the sale of stock in Conrail pursuant to a public offering under the Conrail Privatization Act. If there is more than 1 public offering under such Act, such term means the sale pursuant to the initial public offering under such Act. *Ante*, p. 1892.

(3) **Secretary.**—The term "Secretary" means the Secretary of the Treasury or his delegate.

PART IV—TAX ON PETROLEUM AND OIL SPILL LIABILITY TRUST FUND

Subpart A—Tax Provisions if Superfund Amendments Not Enacted

SEC. 8031. TAX ON PETROLEUM.

(a) **In General.**—Subsections (a) and (b) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum) are each amended by striking out "of 0.79 cent a barrel" and inserting in lieu thereof "at the rate specified in subsection (c)". *Ante*, p. 1761; *post*, p. 1956.

(b) **Increase in Tax.**—Section 4611 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) **Rate of Tax.**—

"(1) **In general.**—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) **Rates.**—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is 0.79 cent a barrel, and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(c) **Credit Against Portion of Tax Attributable to Oil Spill Rate.**—Section 4612 of such Code (relating to definitions and special rules) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection: *Ante*, p. 1761.

"(c) **Credit Against Portion of Tax Attributable to Oil Spill Rate.**—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the Oil Spill Liability Trust Fund financing rate for any period an amount equal to the excess of—

"(1) the sum of—

"(A) the aggregate amounts paid by the taxpayer before January 1, 1987, into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund, and

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"(B) the interest accrued on such amounts before such date, over

"(2) the amount of such payments taken into account under this subsection for all prior periods."

(d) Conforming Amendments.—

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as redesignated by subsection (b), is amended to read as follows:

"(e) Application of Taxes.—

"(1) Superfund rate.—The Hazardous Substance Superfund financing rate under subsection (c) shall not apply after September 30, 1985.

"(2) Oil spill rate.—

"(A) In general.—Except as provided in subparagraph (C), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after the commencement date and before January 1, 1992.

"(B) Commencement date.—

"(i) In general.—For purposes of this paragraph, the term 'commencement date' means the later of—

"(I) February 1, 1987, or

"(II) the 1st day of the 1st calendar month beginning more than 30 days after the date of the enactment of qualified authorizing legislation.

"(ii) Qualified authorizing legislation.—For purposes of clause (i), the term 'qualified authorizing legislation' means any law enacted before September 1, 1987, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed the House of Representatives.

"(C) No tax if amounts collected exceed $300,000,000.—

"(i) Estimates by secretary.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of the amount of taxes which will be collected under this section (to the extent attributable to the Oil Spill Liability Trust Fund financing rate) during the period beginning on the commencement date and ending on December 31, 1991.

"(ii) Termination if $300,000,000 credited before January 1, 1992.—If the Secretary estimates under clause (i) that more than $300,000,000 will be credited to the Fund before January 1, 1992, the Oil Spill Liability Trust Fund financing rate shall not apply after the date on which (as estimated by the Secretary) $300,000,000 will be so credited to the Fund."

Post, p. 1958.

(2) Subsection (c) of section 4661 of such Code (relating to termination of tax on certain chemicals) is amended to read as follows:

"(c) Termination.—The tax imposed by this section shall not apply after September 30, 1985."

Ante, p. 1774.

(3) Paragraph (1) of section 221(b) of the Hazardous Substance Response Revenue Act of 1980 (relating to transfers to Response Trust Fund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, subparagraph (A) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c)."

100 STAT. 1957

(e) Effective Date.—

Ante, p. 1956.

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the commencement date (as defined in section 4611(e)(2) of the Internal Revenue Code of 1954, as added by this section).

(2) Coordination with superfund reauthorization.—The amendments made by this section shall not take effect if the Superfund Amendments and Reauthorization Act of 1986 is enacted.

Ante, p. 1613.

Subpart B—Tax Provisions If Superfund Amendments Enacted

SEC. 8032. INCREASE IN ENVIRONMENTAL TAX ON PETROLEUM.

(a) In General.—Subsection (c) of section 4611 of the Internal Revenue Code of 1954 (relating to environmental tax on petroleum), as amended by the Superfund Amendments and Reauthorization Act of 1986, is amended to read as follows:

Ante, pp. 1761, 1955.

"(c) Rate of Tax.—

"(1) In general.—The rate of the taxes imposed by this section is the sum of—

"(A) the Hazardous Substance Superfund financing rate, and

"(B) the Oil Spill Liability Trust Fund financing rate.

"(2) Rates.—For purposes of paragraph (1)—

"(A) the Hazardous Substance Superfund financing rate is—

"(i) except as provided in clause (ii), 8.2 cents a barrel, and

"(ii) 11.7 cents a barrel in the case of the tax imposed by subsection (a)(2), and

"(B) the Oil Spill Liability Trust Fund financing rate is 1.3 cents a barrel."

(b) Credit Against Portion of Tax Attributable to Oil Spill Rate.—Section 4612 of such Code (relating to definitions and special rules), as so amended, is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

Ante, pp. 1761, 1955.

"(d) Credit Against Portion of Tax Attributable to Oil Spill Rate.—There shall be allowed as a credit against so much of the tax imposed by section 4611 as is attributable to the Oil Spill Liability Trust Fund financing rate for any period an amount equal to the excess of—

"(1) the sum of—

"(A) the aggregate amounts paid by the taxpayer before January 1, 1987, into the Deepwater Port Liability Trust Fund and the Offshore Oil Pollution Compensation Fund, and

"(B) the interest accrued on such amounts before such date, over

"(2) the amount of such payments taken into account under this subsection for all prior periods."

(c) Conforming Amendments.—

100 STAT. 1958

(1) Subsection (e) of section 4611 of such Code (relating to application of taxes), as so amended, is amended—

Ante, pp. 1761, 1955.

(A) in the subsection heading by striking out "Taxes" and inserting in lieu thereof "Hazardous Substance Superfund Financing Rate",

(B) in paragraph (1) by striking out "the taxes imposed by this section" and inserting in lieu thereof "the Hazardous Substance Superfund financing rate under this section",

(C) in paragraphs (2) and (3)(A) after "this section" by inserting "(to the extent attributable to the Hazardous Substance Superfund financing rate)", and

(D) in paragraph (3)(B) by striking out "no tax shall be imposed under this section" and inserting in lieu thereof "the Hazardous Substance Superfund financing rate under this section shall not apply".

(2) Section 4611 of such Code, as so amended, is amended by adding at the end thereof the following new subsection:

"(f) Application of Oil Spill Liability Trust Fund Financing Rate.—

"(1) In general.—Except as provided in paragraph (3), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after the commencement date and before January 1, 1992.

"(2) Commencement date.—

"(A) In general.—For purposes of this subsection, the term 'commencement date' means the later of—

"(i) February 1, 1987, or

"(ii) the 1st day of the 1st calendar month beginning more than 30 days after the date of the enactment of qualified authorizing legislation.

"(B) Qualified authorizing legislation.—For purposes of subparagraph (A), the term 'qualified authorizing legislation' means any law enacted before September 1, 1987, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed the House of Representatives.

"(3) No tax if amounts collected exceed $300,000,000.—

"(A) Estimates by secretary.—The Secretary as of the close of each calendar quarter (and at such other times as the Secretary determines appropriate) shall make an estimate of the amount of taxes which will be collected under this section (to the extent attributable to the Oil Spill Liability Trust Fund financing rate) during the period beginning on the commencement date and ending on December 31, 1991.

"(B) Termination if $300,000,000 credited before January 1, 1992.—If the Secretary estimates under subparagraph (A) that more than $300,000,000 will be credited to the Fund before January 1, 1992, the Oil Spill Liability Trust Fund financing rate shall not apply after the date on which (as estimated by the Secretary) $300,000,000 will be so credited to the Fund."

Ante, pp. 1761, 1956.

(3) Sections 4661(c) and 4671(e) of such Code (relating to termination of environmental taxes) are each amended by striking out "no tax is imposed under section 4611(a)" and inserting in lieu thereof "the Hazardous Substance Superfund financing rate under section 4611 does not apply".

100 STAT. 1959

Infra; post, p. 1962.

(4) Subsection (b) of section 9507 of such Code (relating to transfers to Superfund) is amended by adding at the end thereof the following:

"In the case of the tax imposed by section 4611, paragraph (1) shall apply only to so much of such tax as is attributable to the Hazardous Substance Superfund financing rate under section 4611(c)."

Ante, pp. 1955, 1957.
26 USC 4611 note.

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the commencement date (as defined in section 4611(f)(2) of the Internal Revenue Code of 1954, as added by this section).

Ante, p. 1958.

(2) Coordination with superfund reauthorization.—The amendments made by this section shall take effect only if the Superfund Amendments and Reauthorization Act of 1986 is enacted.

Ante, p. 1613.

Subpart C—Oil Spill Liability Trust Fund

SEC. 8033. OIL SPILL LIABILITY TRUST FUND.

Post, p. 2095; 26 USC 9501.

(a) In General.—Subchapter A of chapter 98 of the Internal Revenue Code of 1954 (relating to establishment of trust funds) is amended by adding after section 9506 the following new section:

"SEC. 9507. OIL SPILL LIABILITY TRUST FUND. Post, p. 1962; 26 USC 9507.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Oil Spill Liability Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to—

"(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

"(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

"(3) amounts remaining (on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies) in the Deep Water Port Liability Fund established by section 18(f) of the Deep Water Port Act of 1974, 33 USC 1517.

"(4) amounts remaining (on such date) in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and 43 USC 1812.

"(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act. 33 USC 1321.

"(c) EXPENDITURES.—

"(1) GENERAL EXPENDITURE PURPOSES.—

"(A) IN GENERAL.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures for—

"(i) the payment of removal costs described in the Comprehensive Oil Pollution Liability and Compensation Act,

100 STAT. 1960

"(ii) the payment of claims under the Comprehensive Oil Pollution Liability and Compensation Act for damage which is not otherwise compensated,

"(iii) carrying out subsections (c), (d), (i), and (l) of section 311 of the Federal Water Pollution Control Act with respect to any discharge of oil (as defined in such section), 33 USC 1321

"(iv) carrying out section 5 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution, 33 USC 1474.

"(v) the payment of all expenses of administration incurred by the Federal Government under the Comprehensive Oil Pollution Liability and Compensation Act, and

"(vi) the payment of contributions to the International Fund under such Act.

For purposes of this subparagraph, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to qualified authorizing legislation (as defined in section 4611). *Ante*, pp. 1761, 1955.

"(B) SPECIAL RULES.—

"(i) PAYMENTS TO GOVERNMENTS ONLY FOR REMOVAL COSTS AND NATURAL RESOURCE DAMAGE ASSESSMENTS AND CLAIMS.—Except in the case of payments described in subparagraph (A)(v), amounts shall be available under subparagraph (A) for payments to any government only for—

"(I) removal costs and natural resource damage assessments and claims, and

"(II) administrative expenses related to such costs, assessments, or claims.

"(ii) RESTRICTIONS ON CONTRIBUTIONS TO INTERNATIONAL FUND.—Under regulations prescribed by the Secretary, amounts shall be available under subparagraph (A) with respect to any contribution to the International Fund only in proportion to the portion of such fund used for a purpose for which amounts may be paid from the Oil Spill Liability Trust Fund.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) $500,000,000 PER INCIDENT, ETC.—The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to—

"(i) any single incident shall not exceed $500,000,000, and

"(ii) natural resource damage assessments and claims in connection with any single incident shall not exceed $250,000,000.

"(B) $30,000,000 MINIMUM BALANCE.—Except in the case of payments described in paragraph (1)(A)(i), a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than $30,000,000.

"(d) AUTHORITY TO BORROW.—

Appropriation authorization.

"(1) IN GENERAL.—There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such

100 STAT. 1961

Trust Fund.

"(2) LIMITATION ON AMOUNT OUTSTANDING.—The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed $500,000,000.

"(3) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made to the Oil Spill Liability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Fund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Oil Spill Liability Trust Fund after December 31, 1991, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be—

"(i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and

"(ii) compounded annually.

"(e) LIABILITY OF THE UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.—

"(1) GENERAL RULE.—Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

"(2) COORDINATION WITH OTHER PROVISIONS.—Nothing in the Comprehensive Oil Pollution Liability and Compensation Act (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

"(3) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) and such subsection, be paid in full in the order in which they were finally determined."

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9506 the following new item:

"Sec. 9507. Oil Spill Liability Trust Fund."

(c) Effective Date.—

26 USC 9509.

(1) In general.—The amendments made by this section shall take effect on the commencement date (as defined in section 4611 of the Internal Revenue Code of 1954, as amended by this part).

Ante, pp. 1761, 1955.

(2) Coordination with superfund reauthorization.—If the Superfund Amendments and Reauthorization Act of 1986 is enacted—

Ante, p. 1613.

(A) subsection (a) of this section shall be applied by substituting "section 9508" for "section 9506",

100 STAT. 1962

(B) section 9507 of the Internal Revenue Code of 1954, as added by this section, is hereby redesignated as section 9509 of such Code, and

Ante, p. 1959.

(C) in lieu of the amendment made by subsection (b), the table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9508 the following new item:

"Sec. 9509. Oil Spill Liability Trust Fund."

PART V—DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES

SEC. 8041. DENIAL OF CERTAIN TAX BENEFITS WITH RESPECT TO ACTIVITIES IN CERTAIN FOREIGN COUNTRIES.

(a) Denial of Foreign Tax Credit.—Section 901 of the Internal Revenue Code of 1954 (relating to taxes of foreign countries and of possessions of the United States), as amended by the Tax Reform Act of 1986, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

Post, p. 2095; 26 USC 901.

"(j) Denial of Foreign Tax Credit, Etc., With Respect to Certain Foreign Countries.—

"(1) In general.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any country if such taxes are with respect to income attributable to a period to which this subsection applies to such country, and

"(B) subsections (a), (b), and (c) of section 904 and sections 902 and 960 shall be applied separately with respect to income attributable to such a period from sources within any country so identified.

"(2) Countries to which subsection applies.—

"(A) In general.—This subsection shall apply to any foreign country—

"(i) the government of which the United States does not recognize, unless such government is otherwise eligible to purchase defense articles or services under the Arms Export Control Act,

22 USC 2751 note.

"(ii) with respect to which the United States has severed diplomatic relations,

"(iii) with respect to which the United States has not severed diplomatic relations but does not conduct such relations, or

Terrorism.
Ante, p. 874.

"(iv) which the Secretary of State has, pursuant to section 6(j) of the Export Administration Act of 1979, as amended, designated as a foreign country which repeatedly provides support for acts of international terrorisms.

"(B) Period for which subsection applies.—This subsection shall apply to any foreign country described in subparagraph (A) during the period—

100 STAT. 1963

"(i) beginning on the later of—

"(I) January 1, 1987, or

"(II) 6 months after such country becomes a country described in subparagraph (A), and

"(ii) ending on the date the Secretary of State certifies to the Secretary of the Treasury that such country is no longer described in subparagraph (A).

"(3) Taxes allowed as a deduction.—Section 275 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

"(4) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign country to which this subsection applies if such income was, without regard to such entities, derived from such country."

(b) Denial of Deferral of Income.—

(1) General rule.—Section 952(a) of such Code (defining subpart F income) is amended—

(A) by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by inserting immediately after paragraph (4) the following new paragraph:

"(5) the income of such corporation derived from any foreign country during any period during which section 901(j) applies to such foreign country.", and

(B) by adding at the end thereof the following sentence: "For purposes of paragraph (5), the income described therein shall be reduced, under regulations prescribed by the Secretary, so as to take into account deductions (including taxes) properly allocable to such income."

(2) Income derived from foreign country.—Section 952 of such Code (defining subpart F income), as amended by the Tax Reform Act of 1986, is amended by adding at the end thereof the following new subsection:

Post, p. 2095.

Regulations.

"(d) Income Derived From Foreign Country.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of subsection (a)(5), including regulations which treat income paid through 1 or more entities as derived from a foreign country to which section 901(j) applies if such income was, without regard to such entities, derived from such country."

26 USC 901 note.

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1987.

PART VI—APPROPRIATIONS FOR IRS ENFORCEMENT

SEC. 8051. APPROPRIATIONS FOR IRS ENFORCEMENT.

For purposes of reconciliation, in order to provide for an accurate estimate of revenue raised by increased appropriations for the Internal Revenue Service, the enacted appropriations measure providing funding for the Internal Revenue Service for the fiscal year ending September 30, 1987, will include the following funding levels: for "Salaries and Expenses", $95,147,000; for "Processing Tax Returns", $1,332,902,000; for "Examinations and Appeals", $1,623,162,000; and for "Investigation, Collection, and Taxpayer

Service", $1,196,581,000: *Provided*, That the allocation to the Senate Committee on Appropriations pursuant to section 302(a) of the Budget Act, as amended, under Senate Concurrent Resolution 120, the concurrent resolution on the budget for fiscal year 1987, is increased by $300,000,000 in both new budget authority and outlays.

PART VII—STUDY OF COMMUNICATION SERVICES NOT SUBJECT TO FEDERAL EXCISE TAX

SEC. 8061. STUDY OF COMMUNICATION SERVICES NOT SUBJECT TO FEDERAL EXCISE TAX.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of communication services which are exempt from the tax imposed by section 4251 of the Internal Revenue Code of 1954 by reason of being a private communication service (as defined in section 4252(d) of such Code) or by reason of a specific exemption from such tax under section 4253 of such Code. Such study shall include an estimate of the reduction in tax revenues by reason of each such exemption, shall describe the types of persons which benefit from each such exemption, and a method under which such tax could be extended to private communication services (as so defined). In conducting such study, the Secretary of the Treasury or his delegate shall consult with the Secretary of Commerce and the Chairman of the Federal Communications Commission.

Post, p. 2095;
26 USC 4251.

(b) REPORT.—The report of the study under subsection (a) shall be submitted, not later than June 30, 1987, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART VIII—AMENDMENTS RELATED TO TAX REFORM ACT OF 1986

SEC. 8071. TREATMENT OF CERTAIN TRUCKS, ETC.

Subsection (a) of section 204 of the Tax Reform Act of 1986 (relating to additional transitional rules) is amended by adding at the end thereof the following new paragraph:

Post, p. 2095;
26 USC 168 note.

Iowa.

> "(40) CERTAIN TRUCKS, ETC.—The amendments made by section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985 but only to the extent the aggregate reduction in Federal tax liability by reason of the application of this paragraph does not exceed $8,500,000."

SEC. 8072. APPLICATION OF AT-RISK RULES TO LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Paragraph (1) of section 42(k) of the Internal Revenue Code of 1986 (relating to low-income housing credit), as added by the Tax Reform Act of 1986, is amended by striking out "subparagraph (D)(iv)(I)" and inserting in lieu thereof "subparagraphs (D)(ii)(II) and (D)(iv)(I)".

Post, p. 2095;
26 USC 42.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 252(a) of the Tax Reform Act of 1986.

26 USC 42 note.

Post, p. 2095.

100 STAT. 1965

SEC. 8073. TREATMENT OF CERTAIN RURAL HOUSING FOR PURPOSES OF TRANSITIONAL RULE FOR LOW-INCOME HOUSING.

(a) IN GENERAL.—Subsection (d) of section 502 of the Tax Reform Act of 1986 (defining qualified investor) is amended by adding at the end thereof the following new paragraph:

26 USC 469 note.
Post, p. 2095.

> "(4) SPECIAL RULE FOR CERTAIN RURAL HOUSING.—In the case of any interest in a qualified low-income housing project which—

"(A) is assisted under section 515 of the Housing Act of 1949 (relating to the Farmers' Home Administration Program), and

42 USC 1485.

"(B) is located in a town with a population of less than 10,000 and which is not part of a metropolitan statistical area,

paragraph (1)(B) shall be applied by substituting '35 percent' for '50 percent' and subsection (b)(1) shall be applied by substituting '5th taxable year' for '6th taxable year'. The preceding sentence shall not apply to any interest unless, on December 31, 1986, at least one-half of the number of payments required with respect to such interest remain to be paid."

26 USC 469 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 502 of the Tax Reform Act of 1986 on the date of its enactment.

PART IX—COORDINATION WITH OTHER PROVISIONS

26 USC 1 note.

SEC. 8081. COORDINATION WITH OTHER PROVISIONS.

Taxes.

Nothing in any provision of this Act (other than this title) shall be construed as—

(1) imposing any tax (or exempting any person or property from any tax),

(2) establishing any trust fund, or

(3) authorizing amounts to be expended from any trust fund.

Subtitle B—Customs Revenues

SEC. 8101. CUSTOMS USER FEES FOR THE PROCESSING OF MERCHANDISE ENTRIES.

(a) AMOUNT OF FEE.—Subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is amended by adding at the end thereof the following new paragraphs:

"(9) For the processing of any merchandise (other than an article that is—

"(A) provided for in schedule 8 of the Tariff Schedules of the United States,

19 USC 1202 note.

"(B) a product of an insular possession of the United States, or

"(C) a product of any county listed in General Headnote 3(e)(vi) or (vii) of such Schedules)

that is formally entered, or withdrawn from warehouse for consumption—

"(i) after November 30, 1986, and

"(ii) before October 1, 1987;

a fee in an amount equal to 0.22 percent ad valorem.

100 STAT. 1966

"(10) For the processing of any merchandise (other than an article described in subparagraph (A), (B), or (C) of paragraph (9)) that is formally entered, or withdrawn from warehouse for consumption, during any fiscal year occurring after September 30, 1987; a fee in an amount equal to the lesser of—

"(A) 0.17 percent ad valorem, or

"(B) an ad valorem rate which the Secretary of the Treasury estimates will provide a total amount of revenue during the fiscal year equal to—

"(i) the total amount authorized to be appropriated for such fiscal year to the United States Customs Service for salaries and expenses incurred in conducting commercial operations during such fiscal year, reduced by "(ii) the excess, if any, of—

"(I) the total amount authorized to be appropriated for such salaries and expenses for such fiscal year, over

"(II) the total amount actually appropriated for such salaries and expenses for such fiscal year;

except that if appropriations are not authorized for a fiscal year, the fee imposed under this paragraph with respect to that year shall be in an amount equal to 0.17 percent ad valorem.".

(b) REDUCTION IN AMOUNT OF FEE.—Subsection (b) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end thereof the following new paragraphs:

Ante, p. 308.

"(8)(A) The fee charged under subsection (a)(9) or (10) with respect to the processing of merchandise shall—

"(i) be paid by the importer of record of the merchandise; and

"(ii) be based on the value of the merchandise as determined under section 402 of the Tariff Act of 1930.

19 USC 1401a.
Federal Register, publication.

"(B)(i) By no later than the date that is 5 days after the date on which any funds are appropriated to the United States Customs Service for salaries or expenses incurred in conducting commercial operations, the Secretary of the Treasury shall determine the ad valorem rate of the fee charged under subsection (a)(10) and shall publish the determination in the Federal Register. Such ad valorem rate shall apply with respect to services provided for the processing of entries, and withdrawals from warehouse, for consumption made after the date that is 60 days after the date of such determination.

"(ii) No determination is required under clause (i) with respect to an appropriation to the United States Customs Service if the funds appropriated are available for less than 60 days.

"(9) The Secretary may reduce by an amount he considers equitable the fees charged under subsection (a) for the processing of merchandise entries at facilities at which users reimburse the United States Customs Service, pursuant to section 9701 of title 31, United States Code, or section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b), for the services that it provides at the facilities.".

(c) PROVISION OF CUSTOMS SERVICES.—(1) Subsection (e) of section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of law, during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected for—

"(A) any cargo inspection, clearance, or other customs service performed (regardless whether performed outside of normal business hours on an overtime basis); or

"(B) any customs personnel provided;

in connection with the arrival or departure of any commercial vessel, vehicle or aircraft, or its passengers, crew, and cargo, in the United States.".

(2) Paragraph (2) of such subsection (e), as amended by section 1893 of the Tax Reform Act of 1986, is amended by striking out "Paragraph (1)" and inserting "This subsection".

(d) CUSTOMS USER FEE ACCOUNT.—Subsection (f) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended by adding at the end thereof the following new paragraphs:

"(3) Except as provided in paragraph (2), all funds in the Customs User Fee Account shall only be available, to the extent provided for in appropriation Acts, for the salaries and expenses of the United States Customs Service incurred in conducting commercial operations.

Reports.

"(4) At the close of fiscal year 1988 and each even-numbered fiscal year occurring thereafter, the Secretary of the Treasury shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding how the fees imposed under subsection (a) should be adjusted in order that the balance of the Customs User Fee Account approximates a zero balance. Before making recommendations regarding any such adjustments, the Secretary of the Treasury shall provide adequate opportunity for public comment. The recommendations shall, as precisely as possible, propose fees which reflect the actual costs to the United States Government for the commercial services provided by the United States Customs Service.".

19 USC 58c note.
Ante, p. 310.

(e) TERMINATION OF FEES.—Subsection (j) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking out "provided in paragraph (2)" in paragraph (1) and inserting in lieu thereof "otherwise provided in this subsection"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Fees may not be charged under subsection (a) after September 30, 1989.".

Paragraph (3) shall not apply to any authorization made by title IX of this Act.

SEC. 8102. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1987 FOR THE UNITED STATES CUSTOMS SERVICE.

Ante, p. 305.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (a) is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The authorization of the appropriations for the United States Customs Service for each fiscal year after fiscal year 1987 shall specify—

100 STAT. 1968

"(A) the amount authorized for the fiscal year for the salaries and expenses of the Service in conducting commercial operations; and

"(B) the amount authorized for the fiscal year for the salaries and expenses of the Service for other than commercial operations."; and

(2) Subsection (b) is amended to read as follows:

Appropriation authorization.

"(b)(1) There are authorized to be appropriated to the Department of the Treasury not to exceed $1,001,180,000 for the salaries and expenses of the United States Customs Service for fiscal year 1987; of which—

"(A) $749,131,000 is for salaries and expenses to maintain current operating levels, and includes such sums as may be necessary to complete the testing of the prototype of the automatic license plate reader program and to implement that program;

"(B) $80,999,000 is for the salaries and expenses of additional personnel to be used in carrying out drug enforcement activities; and

"(C) $171,050,000 is for the operation and maintenance of the air interdiction program of the Service, of which—

"(i) $93,500,000 is for additional aircraft, communications enhancements, and command, control, communications, and intelligence centers, and

"(ii) $350,000 is for a feasibility and application study for a low-level radar detection system in collaboration with the Los Alamos National Laboratory.

"(2) No part of any sum that is appropriated under the authority of paragraph (1) may be used to close any port of entry at which, during fiscal year 1986—

"(A) not less than 2,500 merchandise entries (including informal entries) were made; and

"(B) not less than $1,500,000 in customs revenues were assessed.".

Subtitle C—Public Debt Limit and Related Provisions

SEC. 8201. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

31 USC 3101 note.

During the period beginning on the date of the enactment of this Act and ending on May 15, 1987, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased by $189,000,000,000.

SEC. 8202. RESTORATION OF LOST INTEREST TO CERTAIN TRUST FUNDS.

(a) GENERAL RULE.—The Secretary of the Treasury shall pay, from amounts in the general fund of the Treasury not otherwise appropriated, to each qualified fund on the 1st normal interest payment date after the date of the enactment of this Act an amount equal to the interest payment shortfall for such fund.

(b) QUALIFIED FUND.—For purposes of this section, the term "qualified fund" means any fund which is listed in Table III of the Monthly Statement of Public Debt issued by the Department of the Treasury for September 30, 1986, and which has an interest payment shortfall. Such term shall not include the Department of Defense Military Retirement Fund.

(c) INTEREST PAYMENT SHORTFALL.—For purposes of this section, the term "interest payment shortfall" means, with respect to any fund, the reduction in the interest which would have been earned by such fund during the period beginning with September 30, 1986, and ending with the date of the enactment of this Act as the result of noninvestments, redemptions, and disinvestments with respect to such fund which occurred during such period and which would not have occurred if H.J. Res. 668 (99th Congress, 2d Session), as passed by the House of Representatives on June 26, 1986, had been enacted into law on September 30, 1986. Such amount shall be reduced by any payment to such fund under any other provision of law in respect of such lost interest.

SEC. 8203. RESTORATION OF DEPARTMENT OF DEFENSE MILITARY RETIREMENT FUND.

31 USC 3101 *et seq.*

The Secretary of the Treasury shall immediately issue to the Department of Defense Military Retirement Fund obligations under chapter 31 of title 31, United States Code, which such Secretary, in consultation with the Secretary of Defense, determines would have been issued to such fund on October 1, 1986, if H.J. Res. 668 (99th Congress, 2d session), as passed by the House of Representatives on June 26, 1986, had been enacted into law on September 30, 1986. Such obligations shall be market-based special obligations issued at prices, including accrued interest, prevailing for such obligations on October 1, 1986. Such obligations shall be issued as of October 1, 1986, and the fund shall earn interest on such obligations beginning on October 1, 1986. Such obligations shall be substituted for obligations which are held by such fund on the date of the enactment of this Act (and any uninvested balance on such date in such fund shall be reduced) in a manner which will ensure that, after such substitution (and reduction), the holdings of such fund will replicate to the maximum extent practicable the holdings which would have been held by such fund on such date if such H.J. Res. 668 had been enacted into law on September 30, 1986.

TITLE IX—INCOME SECURITY, MEDICARE, MEDICAID, AND MATERNAL AND CHILD HEALTH PROGRAMS

Subtitle A—OASDI provisions
Subtitle B—Provisions relating to public assistance
Subtitle C—Older Americans pension benefits
Subtitle D—Provisions relating to medicare
Subtitle E—Medicaid and maternal and child health
Subtitle F—Provision relating to access to health care

Subtitle A—OASDI Provisions

SEC. 9001. ELIMINATION OF 3-PERCENT TRIGGER FOR COST-OF-LIVING INCREASES.

42 USC 415.

100 STAT. 1970

(a) Elimination of Trigger.—Section 215(i)(1)(B) of the Social Security Act is amended by striking out "with respect to which the applicable increase percentage is 3 percent or more" and inserting in lieu thereof "with respect to which the applicable increase percentage is greater than zero".

(b) Conforming Amendments.—

42 USC 415.

(1) In current law.—Section 215(i) of such Act is further amended—

(A)(i) by striking out clause (i) in paragraph (2)(C) and redesignating clauses (ii) and (iii) of such paragraph as clauses (i) and (ii), respectively; and

(ii) by striking out "under clause (ii)" in clause (ii) of such paragraph as so redesignated and inserting in lieu thereof "under clause (i)";

42 USC 1305 note.

(B) by inserting "and by section 9001 of the Omnibus Budget Reconciliation Act of 1986" after "Social Security Amendments of 1983" in paragraph (4); and

(C) by striking out "because the wage increase percentage was less than 3 percent" in paragraph (5)(A)(i) and inserting in lieu thereof "because there was no wage increase percentage greater than zero".

(2) In applicable former law.—Section 215(i) of such Act, as in effect in December 1978 and applied in certain cases under the provisions of such Act in effect after December 1978, is amended—

(A) by striking out ", by not less than 3 per centum," in paragraph (1)(B); and

(B) by striking out "(C)(i) Whenever" and all that follows down through "(ii) Whenever" in paragraph (2)(C) and inserting in lieu thereof "(C) Whenever".

42 USC 1395r.

(c) Technical Amendment to SMI Program.—Section 1839(f)(2)(A) of such Act is amended to read as follows:

42 USC 402, 423.

42 USC 415.

"(A) the monthly premium amount determined under subsection (a)(2) for that January reduced by the amount (if any) by which the monthly benefit under section 202 or 223 for that November, after the deduction of the premium (disregarding subsection (b)) for that individual for that December and after rounding under section 215(g), would exceed the monthly benefit under section 202 or 223 for that December, after the deduction of the monthly premium amount determined under subsection (a)(2) (disregarding subsection (b)) for that individual for that January and after rounding under section 215(g), or".

42 USC 415 note.

(d) Effective Date.—(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply with respect to cost-of-living increases determined under section 215(i) of the Social Security Act (as currently in effect, and as in effect in December 1978 and applied in certain cases under the provisions of such Act in effect after December 1978) in 1986 and subsequent years.

(2) The amendments made by paragraphs (1)(A) and (2)(B) of

subsection (b) shall apply with respect to months after September 1986.

(3) The amendment made by subsection (c) shall apply with respect to monthly premiums (under section 1839 of the Social Security Act) for months after December 1986.

SEC. 9002. DEPOSITS OF SOCIAL SECURITY CONTRIBUTIONS BY STATE AND LOCAL GOVERNMENT EMPLOYERS.

26 USC 3126, 3127; *post*, p. 2095; 26 USC 3121 *et seq.*

(a) Returns and Payments.—(1) Subchapter C of chapter 21 of the Internal Revenue Code of 1954 is amended by redesignating section 3126 as section 3127, and by inserting after section 3125 the following new section:

100 STAT. 1971

Wages. 26 USC 3126.

"SEC. 3126. RETURN AND PAYMENT BY GOVERNMENTAL EMPLOYER.

"If the employer is a State or political subdivision thereof, or an agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any wages under section 3101 and the amount of the tax imposed by section 3111 may be made by any officer or employee of such State or political subdivision or such agency or instrumentality, as the case may be, having control of the payment of such wages, or appropriately designated for that purpose.".

(2) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Return and payment by governmental employer.
"Sec. 3127. Short title.".

(b) Treatment of Service Under Section 218 Agreements as Employment Performed by Employees.—

(1) Service treated as employment.—(A) Section 3121(b)(7) of such Code is amended—

(i) by striking out "; or" at the end of subparagraph (C) and inserting in lieu thereof a comma;

(ii) by striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof ", or "; and

(iii) by adding after subparagraph (D) the following new subparagraph:

"(E) service included under an agreement entered into pursuant to section 218 of the Social Security Act;". *Infra.*

(B) Section 1402(b) of such Code is amended by striking out "under an agreement entered into pursuant to the provisions of section 218 of the Social Security Act (relating to coverage of State employees), or" in the flush sentence immediately following paragraph (2).

(2) Individual performing services treated as employee.—(A) Section 3121(d) of such Code is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) any individual who performs services that are included under an agreement entered into pursuant to section 218 of the Social Security Act; or".

(B) Section 3306(i) of such Code is amended by striking out "subparagraphs (B) and (C) of paragraph (3)" and inserting in lieu thereof "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)".

(c) Conforming Amendments in Social Security Act.—(1) Subsections (e), (h), (i), (j), (q), (r), (s), (t), and (w) of section 218 of the Social Security Act are repealed; and subsections (f), (g), (k), (l), (m), (n), (o), (p), and (u) of such section are redesignated as subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m), respectively. 42 USC 418.

(2)(A) Section 205(c)(1)(D)(i) of such Act is amended by inserting "(as in effect prior to December 31, 1986)" after "section 218(e)". 42 USC 405.

(B) Section 205(c)(5)(F)(iii) of such Act is amended—

(i) by inserting "(as in effect prior to December 31, 1986)" after "section 218"; and

(ii) by inserting "(as so in effect)" after "subsection (q) of such section".

42 USC 418.

100 STAT. 1972

(C) Section 218(d)(6) of such Act is amended—

(i) by striking out "subsection (f)" in subparagraph (A) and inserting in lieu thereof "subsection (e)"; and

(ii) by striking out "subsection (f)(1)" in subparagraph (F) and inserting in lieu thereof "subsection (e)(1)".

(D) Section 218(d)(8)(D) of such Act is amended by striking out "subsection (p)" and inserting in lieu thereof "subsection (l)".

(E) Section 218(e)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "Except as provided in subsection (e)(2), any agreement" and inserting in lieu thereof "Any agreement".

42 USC 424a.

(F) Section 224(a)(2)(B) of such Act is amended by striking out "section 218(k)" and inserting in lieu thereof "section 218(g)".

Wages.
Taxes.
42 USC 418 note.

(d) Effective Date.—The amendments made by this section are effective with respect to payments due with respect to wages paid after December 31, 1986, including wages paid after such date by a State (or political subdivision thereof) that modified its agreement pursuant to the provisions of section 218(e)(2) of the Social Security Act prior to the date of the enactment of this Act; except that in cases where, in accordance with the currently applicable schedule, deposits of taxes due under an agreement entered into pursuant to section 218 of the Social Security Act would be required within 3 days after the close of an eighth-monthly period, such 3-day requirement shall be changed to a 7-day requirement for wages paid prior to October 1, 1987, and to a 5-day requirement for wages paid after September 30, 1987, and prior to October 1, 1988. For wages paid prior to October 1, 1988, the deposit schedule for taxes imposed under sections 3101 and 3111 shall be determined separately from the deposit schedule for taxes withheld under section 3402 if the taxes imposed under sections 3101 and 3111 are due with respect to service included under an agreement entered into pursuant to section 218 of the Social Security Act.

26 USC 3101, 3111.
26 USC 3402.

Subtitle B—Provisions Relating to Public Assistance

SEC. 9101. TARGETING UNDER INCOME AND ELIGIBILITY VERIFICATION SYSTEM.

State and local governments.
42 USC 1320b–7.

Section 1137(a)(4)(C) of the Social Security Act is amended by inserting after "payments" the following: ", and no State shall be required to use such information to verify the eligibility of all recipients".

SEC. 9102. ANNUAL CALCULATION OF FEDERAL PERCENTAGE FOR AFDC PURPOSES.

42 USC 1301 note.
Ante, p. 219.

Section 9528(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (as added by section 9421(a) of this Act) is amended (effective as provided in section 9421(b))—

State and local governments.
42 USC 603, 1396b.

(1) by striking out "payment to a State under section 1903" and inserting in lieu thereof "payments to States under sections 403 and 1903"; and

(2) by inserting "with respect to either such section" after "shall not apply to a State".

100 STAT. 1973

SEC. 9103. REQUIREMENT OF STATUTORILY PRESCRIBED PROCEDURES TO PROHIBIT RETROACTIVE MODIFICATION OF CHILD SUPPORT ARREARAGES.

State and local governments.
42 USC 666.

(a) In General.—Section 466(a) of the Social Security Act is amended by inserting immediately after paragraph (8) the following new paragraph:

"(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due)—

"(A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced,

"(B) entitled as a judgment to full faith and credit in such State and in any other State, and

"(C) not subject to retroactive modification by such State or by any other State;

except that such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.".

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall become effective on the date of the enactment of this Act. 42 USC 666 note.

(2) In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the beginning of the fourth month beginning after the end of the first session of the State legislature which ends on or after the date of the enactment of this Act. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

State and local governments.

42 USC 651.

Subtitle C—Older Americans Pension Benefits

SEC. 9201. PROHIBITION AGAINST DISCRIMINATION ON THE BASIS OF AGE IN EMPLOYEE PENSION BENEFIT PLANS.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C 623) is amended by adding at the end the following new subsection:

"(i)(1) Except as otherwise provided in this subsection, it shall be unlawful for an employer, an employment agency, a labor organization, or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits—

"(A) in the case of a defined benefit plan, the cessation of an employee's benefit accrual, or the reduction of the rate of an employee's benefit accrual, because of age, or

"(B) in the case of a defined contribution plan, the cessation of allocations to an employee's account, or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

"(2) Nothing in this section shall be construed to prohibit an employer, employment agency, or labor organization from observing any provision of an employee pension benefit plan to the extent that such provision imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

"(3) In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

"(A) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

"(B) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 206(a)(3) of the Employee Retirement Income Security Act of 1974 and section 401(a)(14)(C) of the Internal Revenue Code of 1986, and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 or section 411(a)(3)(B) of the Internal Revenue Code of 1986, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

29 USC 1056.
Post, p. 2095.
29 USC 1053.

Regulations.

The provisions of this paragraph shall apply in accordance with regulations of the Secretary of the Treasury. Such regulations shall provide for the application of the preceding provisions of this paragraph to all employee pension benefit plans subject to this subsection and may provide for the application of such provisions, in the case of any such employee, with respect to any period of time within a plan year.

"(4) Compliance with the requirements of this subsection with respect to an employee pension benefit plan shall constitute compliance with the requirements of this section relating to benefit accrual under such plan.

"(5) Paragraph (1) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

"(6) A plan shall not be treated as failing to meet the requirements
100 STAT. 1975
of paragraph (1) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

"(7) Any regulations prescribed by the Secretary of the Treasury pursuant to clause (v) of section 411(b)(1)(H) of the Internal Revenue Code of 1986 and subparagraphs (C) and (D) of section 411(b)(2) of such Code shall apply with respect to the requirements of this subsection in the same manner and to the same extent as such regulations apply with respect to the requirements of such sections 411(b)(1)(H) and 411(b)(2).

"(8) A plan shall not be treated as failing to meet the requirements of this section solely because such plan provides a normal retirement age described in section 3(24)(B) of the Employee Retirement Income Security Act of 1974 and section 411(a)(8)(B) of the Internal Revenue Code of 1986.

29 USC 1002.
Post, p. 2095.

"(9) For purposes of this subsection—

"(A) The terms 'employee pension benefit plan', 'defined benefit plan', 'defined contribution plan', and 'normal retirement age' have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

"(B) The term 'compensation' has the meaning provided by section 414(s) of the Internal Revenue Code of 1986.".

SEC. 9202. BENEFIT ACCRUAL BEYOND NORMAL RETIREMENT AGE.

(a) ERISA AMENDMENTS.—

(1) IN GENERAL.—Subsection (a) of section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(a)) is amended to read as follows:

"(a) Each pension plan shall satisfy the requirements of subsection (b)(3), and—

"(1) in the case of a defined benefit plan, shall satisfy the requirements of subsection (b)(1); and

"(2) in the case of a defined contribution plan, shall satisfy the requirements of subsection (b)(2).".

(2) DEFINED BENEFIT PLANS.—Section 204(b)(1) of such Act is amended by adding at the end thereof the following new subparagraph:

"(H)(i) Notwithstanding the preceding subparagraphs, a defined benefit plan shall be treated as not satisfying the requirements of this paragraph if, under the plan, an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the attainment of any age.

"(ii) A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

"(iii) In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

"(I) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

"(II) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 206(a)(3), and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to section 203(a)(3)(B), then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

29 USC 1056.

29 USC 1053.

The preceding provisions of this clause shall apply in accordance with regulations of the Secretary of the Treasury. Such regulations may provide for the application of the preceding provisions of this clause, in the case of any such employee, with respect to any period of time within a plan year.

"(iv) Clause (i) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

Post, p. 2095.

"(v) A plan shall not be treated as failing to meet the requirements of clause (i) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

"(vi) Any regulations prescribed by the Secretary of the Treasury pursuant to clause (v) of section 411(b)(1)(H) of the Internal Revenue Code of 1986 shall apply with respect to the requirements of this

Regulations.

subparagraph in the same manner and to the same extent as such regulations apply with respect to the requirements of such section 411(b)(1)(H).".

29 USC 1054. (3) DEFINED CONTRIBUTION PLANS.—Section 204(b) of such Act is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2)(A) A defined contribution plan satisfies the requirements of this paragraph if, under the plan, allocations to the employee's account are not ceased, and the rate at which amounts are allocated to the employee's account is not reduced, because of the attainment of any age.

"(B) Subparagraph (A) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

"(C) A plan shall not be treated as failing to meet the requirements of subparagraph (A) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals. 100 STAT. 1977

Regulations. "(D) Any regulations prescribed by the Secretary of the Treasury pursuant to subparagraphs (C) and (D) of section 411(b)(2) of the Internal Revenue Code of 1986 shall apply with respect to the requirements of this paragraph in the same manner and to the same extent as such regulations apply with respect to the requirements of such section 411(b)(2).".

(b) IRC AMENDMENTS.—

(1) DEFINED BENEFIT PLANS.—Section 411(b)(1) of the Internal Revenue Code of 1986 (relating to accrued benefit requirements) is amended— 26 USC 411.

(A) by striking out "GENERAL RULES.—" and inserting in lieu thereof "DEFINED BENEFIT PLANS.—"; AND

(B) by adding at the end thereof the following new subparagraph:

"(H) CONTINUED ACCRUAL BEYOND NORMAL RETIREMENT AGE.—

"(i) IN GENERAL.—Notwithstanding the preceding subparagraphs, a defined benefit plan shall be treated as not satisfying the requirements of this paragraph if, under the plan, an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the attainment of any age.

"(ii) CERTAIN LIMITATIONS PERMITTED.—A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

"(iii) ADJUSTMENTS UNDER PLAN FOR DELAYED RETIREMENT TAKEN INTO ACCOUNT.—In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

"(I) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

"(II) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 401(a)(14)(C), and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to subsection (a)(3)(B), then any requirement of this subparagraph for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

100 STAT. 1978

The preceding provisions of this clause shall apply in accordance with regulations of the Secretary. Such regulations may provide for the application of the preceding provisions of this clause, in the case of any such employee, with respect to any period of time within a plan year.

"(iv) DISREGARD OF SUBSIDIZED PORTION OF EARLY RETIREMENT BENEFIT.—A plan shall not be treated as failing to meet the requirements of clause (i) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

Regulations.

"(v) COORDINATION WITH OTHER REQUIREMENTS.—The Secretary shall provide by regulation for the coordination of the requirements of this subparagraph with the requirements of subsection (a), sections 404, 410, and 415, and the provisions of this subchapter precluding discrimination in favor of highly compensated employees.".

Ante, p. 1977.

(2) DEFINED CONTRIBUTION PLANS.—Section 411(b) of such Code is further amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

"(B) by inserting after paragraph (1) the following new paragraph:

"(2) DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A defined contribution plan satisfies the requirements of this paragraph if, under the plan, allocations to the employee's account are not ceased, and the rate at which amounts are allocated to the employee's account is not reduced, because of the attainment of any age.

"(B) DISREGARD OF SUBSIDIZED PORTION OF EARLY RETIREMENT BENEFIT.—A plan shall not be treated as failing to meet the requirements of subparagraph (A) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals.

Regulations.

"(C) APPLICATION TO TARGET BENEFIT PLANS.—The Secretary shall provide by regulation for the application of the requirements of this paragraph to target benefit plans.

"(D) COORDINATION WITH OTHER REQUIREMENTS.—The Secretary may provide by regulation for the coordination of the requirements of this subparagraph with the requirements of subsection (a), sections 404, 410, and 415, and the provisions of this subchapter precluding discrimination in favor of highly compensated employees.".

(3) CONFORMING AMENDMENT.—The first sentence of section 411(a) of such Code (relating to minimum vesting standards) is amended by striking out "paragraph (2) of subsection (b), and" and all that follows through the end thereof and inserting in lieu thereof "subsection (b)(3), and also satisfies, in the case of a defined benefit plan, the requirements of subsection (b)(1) and, in the case of a defined contribution plan, the requirements of subsection (b)(2).".

SEC. 9203. TREATMENT OF INDIVIDUALS HIRED AT AGES NEAR RETIREMENT AGE.

(a) REPEAL OF PROVISIONS PERMITTING CERTAIN PLANS TO EXCLUDE OLDER EMPLOYEES FROM PLAN PARTICIPATION ON THE BASIS OF AGE.—

(1) ERISA AMENDMENT.—Section 202(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(2)) is amended by striking out "unless—" and all that follows and inserting in lieu thereof a period.

Post, p. 2095; 26 USC 410.

(2) IRC AMENDMENT.—Section 410(a)(2) of the Internal Revenue Code of 1986 (relating to maximum age conditions) is amended by striking out "unless—" and all that follows and inserting in lieu thereof a period.

(b) DELAYED NORMAL RETIREMENT AGE FOR INDIVIDUALS COMMENCING PLAN PARTICIPATION WITHIN 5 YEARS OF ATTAINING NORMAL RETIREMENT AGE UNDER THE PLAN.—

(1) ERISA AMENDMENT.—Subparagraph (B) of section 3(24) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(24)(B)) is amended to read as follows:

"(B) the latest of—

"(i) the time a plan participant attains age 65,

"(ii) in the case of a plan participant who commences participation in the plan within 5 years before attaining normal retirement age under the plan, the 5th anniversary of the time the plan participant commences participation in the plan, or

"(iii) in the case of a plan participant not described in clause (ii), the 10th anniversary of the time the plan participant commences participation in the plan.".

(2) IRC AMENDMENT.—Subparagraph (B) of section 411(a)(8) of the Internal Revenue Code of 1986 (relating to normal retirement age) is amended to read as follows:

26 USC 411.

"(B) the latest of—

"(i) the time a plan participant attains age 65,

"(ii) in the case of a plan participant who commences participation in the plan within 5 years before attaining normal retirement age under the plan, the 5th anniversary of the time the plan participant commences participation in the plan, or

"(iii) in the case of a plan participant not described in clause (ii), the 10th anniversary of the time the plan participant commences participation in the plan.".

29 USC 623 note.

SEC. 9204. EFFECTIVE DATE; REGULATIONS.—

(a) APPLICABILITY TO EMPLOYEES WITH SERVICE AFTER 1988.—

(1) IN GENERAL.—The amendments made by sections 9201 and 9202 shall apply only with respect to plan years beginning on or after January 1, 1988, and only to employees who have 1 hour of service in any plan year to which such amendments apply.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1988" the date of the commencement of the first plan year beginning on or after the earlier of—

100 STAT. 1980

(A) the later of—

(i) January 1, 1988, or

(ii) the date on which the last of such collective bargaining agreements terminate (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1990.

(b) APPLICABILITY OF AMENDMENTS RELATING TO NORMAL RETIREMENT AGE.—The amendments made by section 9203 shall apply only with respect to plan years beginning on or after January 1, 1988, and only with respect to service performed on or after such date.

(c) PLAN AMENDMENTS.—If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

A pension plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

Regulations.

(d) INTERAGENCY COORDINATION.—The regulations and rulings issued by the Secretary of Labor, the regulations and rulings issued by the Secretary of the Treasury, and the regulations and rulings issued by the Equal Employment Opportunity Commission pursuant to the amendments made by this subtitle shall each be consistent with the others. The Secretary of Labor, the Secretary of the Treasury, and the Equal Employment Opportunity Commission shall each consult with the others to the extent necessary to meet the requirements of the preceding sentence.

(e) FINAL REGULATIONS.—The Secretary of Labor, the Secretary of the Treasury, and the Equal Employment Opportunity Commission shall each issue before February 1, 1988, such final regulations as may be necessary to carry out the amendments made by this subtitle.

Subtitle D—Provisions Relating to Medicare

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PART 1—PROVISIONS RELATING TO MEDICARE PART A ONLY

SEC. 9301. CHANGES IN INPATIENT HOSPITAL DEDUCTIBLE.

(a) IN GENERAL.—Section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(b)(1) The inpatient hospital deductible for 1987 shall be $520. The inpatient hospital deductible for any succeeding year shall be an amount equal to the inpatient hospital deductible for the preceding calendar year, changed by the applicable percentage increase (as defined in section 1886(b)(3)(B)) which is applied under section 1886(d)(3)(A) for discharges in the fiscal year that begins on October 1 of such preceding calendar year, and adjusted to reflect changes in real case mix (determined on the basis of the most recent case mix data available). Any amount determined under the preceding sentence which is not a multiple of $4 shall be rounded to the nearest multiple of $4 (or, if it is midway between two multiples of $4, to the next higher multiple of $4).

Ante, p. 153.
Post, p. 1983.

"(2) The Secretary shall promulgate the inpatient hospital deductible and all coinsurance amounts under this section between September 1 and September 15 of the year preceding the year to which they will apply.

"(3) The inpatient hospital deductible for a year shall apply to—

"(A) the deduction under the first sentence of subsection (a)(1) for the year in which the first day of inpatient hospital services occurs in a spell of illness, and

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"(B) to the coinsurance amounts under subsection (a) for inpatient hospital services and post-hospital extended care services furnished in that year.".

42 USC 1395e note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to inpatient hospital services and post-hospital extended care services furnished on or after January 1, 1987, and to the monthly premium (under part A of title XVIII of the Social Security Act) for months beginning with January 1987.

42 USC 1395c.
42 USC 1395e note.

(c) PROMULGATION OF NEW DEDUCTIBLE.—The Secretary of Health and Human Services shall provide, within 30 days after the date of the enactment of this Act, for the publication of the inpatient hospital deductible, the coinsurance amounts for inpatient hospital services and post-hospital extended care services and the monthly part A premiums for 1987, as modified under the amendment made by subsection (a).

SEC. 9302. APPLICABLE PERCENTAGE INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.

(a) Applicable Percentage Increase.—

(1) In general.—Subclause (II) of section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended to read as follows:

"(II) for fiscal year 1987, 1.15 percent, and for fiscal year 1988, the market basket percentage increase (as defined in clause (ii)) minus 2.0 percentage points, and".

(2) Conforming amendments.—(A) Section 1886(d)(3)(A) of such Act is amended by striking "and 1986" and inserting ", 1986, 1987, and 1988". *Ante*, p. 154; *post*, p. 1983.

(B) Section 1886(e)(4) of such Act is amended by striking "determine for each fiscal year (beginning with fiscal year 1987)" and inserting "recommend for fiscal year 1988 an appropriate change factor for inpatient hospital services for discharges in that fiscal year and shall determine for each subsequent fiscal year".

(C) Section 1866(e)(5) of such Act is amended by inserting "recommendation or" before "determination" each place it appears.

(3) Effective date.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1986 and, for purposes of section 1886(d) of the Social Security Act, for cost reporting periods beginning and discharges occurring on or after October 1, 1986. 42 USC 1395ww note.

(b) Separate Outlier Offsets for Urban and Rural Hospitals.—

(1) In general.—Section 1886(d)(3)(B) of such Act is amended—

(A) by inserting "for hospitals located in an urban area and for hospitals located in a rural area" after "subparagraph (A)", and

(B) by inserting before the period the following: "for hospitals located in such respective area".

(2) Effective date.—The amendments made by paragraph (1) shall apply to discharges occurring on or after October 1, 1986. 42 USC 1395ww note.

(3) Maintaining current outlier policy in fiscal year 1987.—For payments made under section 1886(d) of the Social Security Act for discharges occurring in fiscal year 1987— 42 USC 1395ww note.

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(A) the proportions under paragraph (3)(B) for hospitals located in urban and rural areas shall be established at such levels as produce the same total dollar reduction under such paragraph as if this section had not been enacted; and

(B) the thresholds and standards used for making additional payments under paragraph (5) of such section shall be the same as those in effect as of October 1, 1986.

(c) Computing Urban and Rural Averages.—Section 1886(d)(3)(A) of such Act is amended by adding at the end the following: "With respect to discharges occurring on or after October 1, 1987, the Secretary shall compute urban and rural averages on the basis of discharge weighting rather than hospital weighting, making appropriate adjustments to ensure that computation on such basis does not result in total payments under this section that are greater or less than the total payments that would have been made under this section but for this sentence, and making appropriate changes in the manner of determining the reductions under subparagraph (C)(ii).". 42 USC 1395ww.

(d) Regional Referral Centers.—

(1) Criteria.—

(A) In general.—Section 1886(d)(5)(C)(i) of such Act is amended—

(i) by inserting "(I)" after "(C)(i)", and

(ii) by adding at the end the following new subclause:

"(II) The Secretary shall provide, under subclause (I), for the classification of a rural hospital as a regional referral center if the hospital has a case mix equal to or greater than the median case mix for hospitals (other than hospitals with approved teaching programs) located in an urban area in the same region (as defined in paragraph (2)(D)), has at least 5,000 discharges a year or, if less, the median number of discharges in urban hospitals in the region in which the hospital is located (or, in the case of a rural osteopathic hospital, meets the criterion established by the Secretary under subclause (I) with respect to the annual number of discharges for such hospitals), and meets any other criteria established by the Secretary under subclause (I).".

42 USC 1395ww note.

(B) EFFECTIVE DATE.—(i) Subject to clause (ii), the amendments made by subparagraph (A) shall apply to payments for discharges occurring on or after October 1, 1986.

(ii) An appeal for classification of a rural hospital as a regional referral center, pursuant to the amendments made by subparagraph (A), which is filed before January 1, 1987, and which is approved shall be effective with respect to discharges occurring on or after October 1, 1986.

42 USC 1395ww note.

(2) EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C)(i) of the Social Security Act on the date of the enactment of this Act shall continue to be classified as a regional referral center for cost reporting periods beginning on or after October 1, 1986, and before October 1, 1989.

42 USC 1395ww note.

(3) BUDGET-NEUTRAL IMPLEMENTATION.—Paragraph (2) and the amendment made by paragraph (1)(A) shall be implemented in a manner that ensures that total payments under section 1886

of the Social Security Act are not increased or decreased by reason of the classifications required by such paragraph or amendment.

(4) RURAL SECONDARY SPECIALTY DEMONSTRATION PROJECT.—

Minnesota.

(A) ESTABLISHMENT.—The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary") shall enter into an agreement with Lake Region Hospital and Nursing Home at Fergus Falls, Minnesota, for the purpose of conducting a rural secondary specialty center demonstration project (in this paragraph referred to as the "project") under title XVIII of the Social Security Act.

42 USC 1395.

(B) PURPOSE.—The purpose of this project shall be to determine the effect that a modified system of making payments under part A of such title to rural secondary specialty centers would have on—

42 USC 1395c.

(i) total expenditures under such part, and

(ii) the access of medicare beneficiaries located in rural areas to quality health care.

(C) PAYMENTS.—During the period of the demonstration project, payments under part A of such title shall be made under the project on the basis of average standardized amounts computed for urban areas in the region in which the project is conducted, as adjusted by a rural wage index.

(D) DURATION.—The project shall be of a maximum duration of three years.

(E) REPORTS.—The Secretary shall submit a final report to the Congress on the project not later than six months after the completion of the project.

(e) MISCELLANEOUS PROVISIONS.—

42 USC 1395ww.

(1) ANNUAL ADJUSTMENT.—Section 1886(d)(4)(C) of such Act is amended by striking "in fiscal year 1986 and at least every four fiscal years" and inserting "in fiscal year 1988 and at least annually".

(2) CLARIFYING AUTHORITY TO VARY RATES.—Section 1886(e)(4) of such Act is amended by adding at the end the following new sentence: "The percentage change shall be the same for all subsection (d) hospitals and subsection (d) Puerto Rico hospitals, but may be different from that for other hospitals (and units not included as such hospitals) and may vary among such other hospitals and units.". Puerto Rico.

(3) NOTICE OF EARLIER PROMULGATION OF PERCENTAGE INCREASE.—Section 1886(e)(3) of such Act is amended—

(A) by inserting "(A)" after "(3)", and

(B) by adding at the end the following new subparagraph: Reports.

"(B) The Secretary, not later than April 1, 1987, for fiscal year 1988 and not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1989), shall report to the Congress the Secretary's initial estimate of the percentage change that the Secretary will recommend or determine under paragraph (4) with respect to that fiscal year.".

(4) EXTENSION OF SOLE COMMUNITY PROVIDER PROVISION.—Section 1886(d)(5)(C)(ii) of such Act is amended by striking "1986" and inserting "1988".

(f) PROMULGATION OF NEW RATE.—The Secretary of Health and Human Services shall provide, within 30 days after the date of the enactment of this Act, for the publication of the payments rates that will apply under section 1886 of the Social Security Act, for discharges occurring on or after October 1, 1986, taking into account the amendments made by this section, without regard to the provisions of chapter 5 of title 5, United States Code. 42 USC 1395ww note.

100 STAT. 1985

5 USC 500 *et seq.*

SEC. 9303. PAYMENTS FOR HOSPITAL CAPITAL-RELATED COSTS.

(a) IN GENERAL.—Section 1886(g) of the Social Security Act (42 U.S.C. 1395ww(g)) is amended by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), in determining the amount of the payments that may be made under this title with respect to all the capital-related costs of inpatient hospital services of a subsection (d) hospital, the Secretary shall reduce the amounts of such payments otherwise established under this title by—

"(i) 3.5 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1987,

"(ii) 7 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1988, and

"(iii) 10 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1989.

"(B) Subparagraph (A) shall not apply to payments with respect to the capital-related costs of any hospital that is a sole community hospital (as defined in subsection (d)(5)(C)(ii)).

"(C) If the Secretary provides, under subsection (a)(4), for the inclusion of other capital-related costs in operating costs of inpatient hospital services, the Secretary shall provide—

"(i) notwithstanding any other provision of this title, for the continuation of payment under the reasonable cost methodology described in section 1861(v)(1) with respect to capital-related costs of any hospital that is such a sole community hospital for cost reporting periods beginning before October 1, 1990, and 42 USC 1395x.

"(ii) in the design of such payment system that the aggregate payment amounts under this title for such other capital-related costs for payments attributable to portions of cost reporting periods occurring during fiscal year 1988 and fiscal year 1989 shall approximate the aggregate payment amount under this title that would have been made (taking into account the provisions of subparagraphs (A) and (B)) during that fiscal year but for the inclusion of such costs by the Secretary.".

(b) ADDITION OF PUERTO RICO HOSPITALS.—Effective for cost reporting periods beginning and discharges occurring (as the case may be) on or after October 1, 1987, section 1886(g)(3)(A) of the Social Security Act (as amended by subsection (a)) is amended by inserting "and a subsection (d) Puerto Rico hospital" after "subsection (d) hospital".

Ante, p. 749.

(c) CLARIFICATION OF SECRETARIAL AUTHORITY TO INCORPORATE PAYMENT FOR OTHER CAPITAL-RELATED COSTS UNDER THE PROSPECTIVE PAYMENT SYSTEM.—Section 1886(a)(4) of such Act is amended by striking "October 1, 1987" and inserting "October 1 of 1987 (or of such later year as the Secretary may, in his discretion, select)".

SEC. 9304. COVERAGE OF HOSPITALS IN PUERTO RICO UNDER A DRG PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

42 USC 1395f.
42 USC 1395e.

"(9)(A) Notwithstanding section 1814(b) but subject to the provisions of section 1813, the amount of the payment with respect to the operating costs of inpatient hospital services of a subsection (d) Puerto Rico hospital for inpatient hospital discharges in a fiscal year beginning on or after October 1, 1987, is equal to the sum of—

"(i) 75 percent of the Puerto Rico adjusted DRG prospective payment rate (determined under subparagraph (B) or (C)) for such discharges, and

"(ii) 25 percent of the discharge-weighted average of—

"(I) the national adjusted DRG prospective payment rate (determined under paragraph (3)(D)) for hospitals located in an urban area, and

Rural areas.

"(II) such rate for hospitals located in a rural area, for such discharges, adjusted in the manner provided in paragraph (3)(E) for different area wage levels. As used in this section, the term 'subsection (d) Puerto Rico hospital' means a hospital that is located in Puerto Rico and that would be a subsection (d) hospital (as defined in paragraph (1)(B)) if it were located in one of the fifty States.

Rural areas.
Urban areas.

"(B) The Secretary shall determine a Puerto Rico adjusted DRG prospective payment rate, for each inpatient hospital discharge in fiscal year 1988 involving inpatient hospital services of a subsection (d) Puerto Rico hospital for which payment may be made under part A of this title. Such rate shall be determined for such hospitals located in urban or rural areas within Puerto Rico, as follows:

"(i) The Secretary shall determine the target amount (as defined in subsection (b)(3)(A)) for the hospital for the cost reporting period beginning in fiscal year 1987 and increase such amount by prorating the applicable percentage increase (as defined in subsection (b)(3)(B)) to update the amount to the midpoint in fiscal year 1988.

"(ii) The Secretary shall standardize the amount determined under clause (i) for each hospital by—

"(I) excluding an estimate of indirect medical education costs,

"(II) adjusting for variations among hospitals by area in the average hospital wage level,

"(III) adjusting for variations in case mix among hospitals, and

"(IV) excluding an estimate of the additional payments to certain subsection (d) Puerto Rico hospitals to be made under subparagraph (D)(v) (relating to disproportionate share payments).

"(iii) The Secretary shall compute a discharge weighted average of the standardized amounts determined under clause (ii) for all hospitals located in an urban area and for all hospitals located in a rural area (as such terms are defined in paragraph (2)(D)).

"(iv) The Secretary shall reduce the average standardized amount by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this paragraph which are additional payments described in subparagraph (D)(i) (relating to outlier payments).

"(v) For each discharge classified within a diagnosis-related group for hospitals located in an urban or rural area, respectively, the Secretary shall establish a Puerto Rico DRG prospective payment rate equal to the product of—

"(I) the average standardized amount (computed under clause (iii) and reduced under clause (iv)) for hospitals located in an urban or rural area, respectively, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(vi) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the Puerto Rico DRG prospective payment rate computed under clause (v) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the Puerto Rican average hospital wage level.

Urban areas.
Rural areas.

"(C) The Secretary shall determine a Puerto Rico adjusted DRG prospective payment rate, for each inpatient hospital discharge after fiscal year 1988 involving inpatient hospital services of a subsection (d) Puerto Rico hospital for which payment may be made under part A of this title. Such rate shall be determined for hospitals located in urban or rural areas within Puerto Rico as follows:

42 USC 1395c.

"(i) The Secretary shall compute an average standardized amount for hospitals located in an urban area and for hospitals located in a rural area equal to the respective average standardized amount computed for the previous fiscal year under subparagraph (B)(iii) or under this clause, increased for fiscal year 1989 by the applicable percentage increase under subsection (b)(3)(B), and adjusted for subsequent fiscal years in accordance with the final determination of the Secretary under subsection (e)(4), and adjusted to reflect the most recent case-mix data available.

"(ii) The Secretary shall reduce each of the average standardized amounts by a proportion equal to the proportion (estimated by the Secretary) of the amount of payments under this paragraph which are additional payments described in subparagraph (D)(i) (relating to outlier payments).

"(iii) For each discharge classified within a diagnosis-related group for hospitals located in an urban or rural area, respectively, the Secretary shall establish a Puerto Rico DRG prospective payment rate equal to the product of—

"(I) the average standardized amount (computed under clause (i) and reduced under clause (ii)) for hospitals located in an urban or rural area, respectively, and

"(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.

"(iv) The Secretary shall adjust the proportion (as estimated by the Secretary from time to time) of hospitals' costs which are attributable to wages and wage-related costs, of the Puerto Rico DRG prospective payment rate computed under clause (iii) for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the Puerto Rico average hospital wage level.

"(D) The following provisions of paragraph (5) shall apply to subsection (d) Puerto Rico hospitals receiving payment under this paragraph in the same manner and to the extent as they apply to subsection (d) hospitals receiving payment under this subsection:

"(i) Subparagraph (A) (relating to outlier payments).

"(ii) Subparagraph (B) (relating to payments for indirect medical education costs), except that for this purpose the sum of the amount determined under subparagraph (A) of this paragraph and the amount paid to the hospital under clause (i) of this subparagraph shall be substituted for the sum referred to in paragraph (5)(B)(i)(I).

"(iii) Subparagraph (C)(iii) (relating to exceptions and adjustments).

"(iv) Subparagraph (E) (relating to payments for costs of certified registered nurse anesthetists).

"(v) Subparagraph (F) (relating to disproportionate share payments), except that for this purpose the sum described in clause (ii) of this subparagraph shall be substituted for the sum referred to in paragraph (5)(F)(ii)(I).".

(b) CONFORMING AMENDMENTS.—(1) The first sentence of subclause (I) of section 1886(d)(5)(C)(i)(I) of such Act, as redesignated by section 9302(d), is amended by inserting "(other than under paragraph (9))" after "established under this subsection". 42 USC 1395ww.

(2) The second and third sentences of section 1886(d)(5)(C)(ii) of such Act are each amended by inserting "(other than under paragraph (9))" after "payment amounts under this subsection".

(c) BUDGET NEUTRALITY.—Section 1886(e)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(C) For discharges occurring in fiscal year 1988, the Secretary shall provide for such equal proportional adjustment in each of the average standardized amounts otherwise computed under subsection (d)(3) for that fiscal year as may be necessary to assure that—

"(i) the aggregate payment amounts otherwise provided under subsections (d)(1)(A)(iii), (d)(5), and (d)(9) for that fiscal year for operating costs of inpatient hospital services of subsection (d) hospitals and subsection (d) Puerto Rico hospitals,

are not greater or less than—

"(ii) the payment amounts that would have been payable for such services for those same hospitals for that fiscal year but for the enactment of the amendments made by section 9304 of the Omnibus Budget Reconciliation Act of 1986.".

42 USC 1395ww note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after October 1, 1987.

SEC. 9305. IMPROVING QUALITY OF CARE WITH RESPECT TO PART A SERVICES.

(a) REFINEMENT OF PROSPECTIVE PAYMENT SYSTEM.—

(1) DEVELOPMENT OF LEGISLATIVE PROPOSAL.—The Secretary of Health and Human Services shall develop and submit to Congress a specific legislative proposal to improve the classification and payment system under section 1886(d) of the Social Security Act (and, as appropriate, the system for payment of outliers under section 1886(d)(5)(A) of such Act) in order to assure that the amount of payment per discharge approximates the cost of medically necessary care provided in an efficient manner for individual patients or classes of patients with similar conditions. *Ante*, p. 1985.

(2) ACCOUNTING FOR SEVERITY OF ILLNESS.—In developing the proposal, the Secretary shall account for variations in severity of illness and case complexity which are not adequately accounted for by the current classification and payment system.

(3) DEADLINE.—The proposal shall be submitted to Congress by not later than 2 years after the date of the enactment of this Act.

(b) REQUIRING NOTICE OF HOSPITAL DISCHARGE RIGHTS.—

(1) REQUIREMENT FOR HOSPITALS TO PROVIDE STATEMENT.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)), as amended by section 1895(b) of the Tax Reform Act of 1986

Post, p. 2025.
Post, p. 2931.

and by section 233 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, is amended—

(A) by striking "and" at the end of the subparagraph (K),

(B) by striking the period at the end of subparagraph (L) and inserting ", and", and

(C) by inserting after subparagraph (L) the following new subparagraph:

"(M) in the case of hospitals, to provide to each individual who is entitled to benefits under part A (or to a person acting on the individual's behalf), at or about the time of the individual's admission as an inpatient to the hospital, a written statement (containing such language as the Secretary prescribes consistent with this paragraph) which explains—

"(i) the individual's rights to benefits for inpatient hospital services and for post-hospital services under this title,

"(ii) the circumstances under which such an individual will and will not be liable for charges for continued stay in the hospital,

"(iii) the individual's right to appeal denials of benefits for continued inpatient hospital services, including the practical steps to initiate such an appeal, and

"(iv) the individual's liability for payment for services if such a denial of benefits is upheld on appeal,

and which provides such additional information as the Secretary may specify."

42 USC 1395cc note.

(2) Effective date.—The Secretary of Health and Human Services shall first prescribe the language required under section 1866(a)(1)(M) of the Social Security Act not later than six months after the date of the enactment of this Act. The requirement of such section shall apply to admissions to hospitals occurring on such date (not later than 60 days after the date such language is first prescribed) as the Secretary shall provide.

(c) Requiring Hospitals To Provide Discharge Planning Process.—

(1) Requirement as condition of participation.—Section 1861(e)(6) of the Social Security Act (42 U.S.C. 1395x(e)(6)) is amended—

(A) by inserting "(A)" after "(6)", and

(B) by inserting before the semicolon at the end the following: "and (B) has in place a discharge planning process that meets the requirements of subsection (ee)".

(2) Discharge planning process defined.—Section 1861 of such Act is further amended by adding at the end the following new subsection:

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"DISCHARGE PLANNING PROCESS

"(ee)(1) A discharge planning process of a hospital shall be considered sufficient if it is applicable to services furnished by the hospital to individuals entitled to benefits under this title and if it meets the guidelines and standards established by the Secretary under paragraph (2).

"(2) The Secretary shall develop guidelines and standards for the discharge planning process in order to ensure a timely and smooth transition to the most appropriate type of and setting for post-hospital or rehabilitative care. The guidelines and standards shall include the following:

"(A) The hospital must identify, at an early stage of hospitalization, those patients who are likely to suffer adverse health consequences upon discharge in the absence of adequate discharge planning.

"(B) Hospitals must provide a discharge planning evaluation for patients identified under subparagraph (A) and for other patients upon the request of the patient, patient's representative, or patient's physician.

"(C) Any discharge planning evaluation must be made on a timely basis to ensure that appropriate arrangements for post-hospital care will be made before discharge and to avoid unnecessary delays in discharge.

"(D) A discharge planning evaluation must include an evaluation of a patient's likely need for appropriate post-hospital services and the availability of those services.

"(E) The discharge planning evaluation must be included in the patient's medical record for use in establishing an appropriate discharge plan and the results of the evaluation must be discussed with the patient (or the patient's representative).

"(F) Upon the request of a patient's physician, the hospital must arrange for the development and initial implementation of a discharge plan for the patient.

"(G) Any discharge planning evaluation or discharge plan required under this paragraph must be developed by, or under the supervision of, a registered professional nurse, social worker, or other appropriately qualified personnel."

(3) EFFECT OF ACCREDITATION.—The second sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended—

(A) by inserting ", requires a discharge planning process (or imposes another requirement which serves substantially the same purpose)," after "the same purpose)", and

(B) by inserting "clause (A) or (B) of" after "comply also with".

42 USC 1395x note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to hospitals as of one year after the date of the enactment of this Act.

42 USC 1395. Reports.

(d) REVIEW OF STANDARDS FOR MEDICARE CONDITIONS OF PARTICIPATION FOR ASSURING QUALITY OF INPATIENT HOSPITAL SERVICES.—The Secretary of Health and Human Services shall arrange for a study of the adequacy of the standards used for hospitals, for purposes of meeting the conditions of participation under title XVIII of the Social Security Act, in assuring the quality of services furnished in hospitals. The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act.

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Hospitals.

(e) STUDY OF PAYMENT FOR ADMINISTRATIVELY NECESSARY DAYS.—

42 USC 1395

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study to determine whether a payment should be made (in a budget-neutral manner under title XVIII of such Act to hospitals receiving payments under section 1886(d) of such Act) to a hospital for administratively necessary days, separate from the per-discharge and outlier payments made under such section.

42 USC 1935c.

(2) ADMINISTRATIVELY NECESSARY DAYS DEFINED.—In this subsection, an "administratively necessary day" is a day of continued inpatient hospital stay, for an individual entitled to benefits under part A of title XVIII of the Social Security Act, necessitated by a delay in obtaining placement for the individual in a skilled nursing facility.

(3) CONSIDERATIONS IN CONDUCTING STUDY.—In conducting the study, the Secretary shall consider—

(A) the need for such a payment in order to minimize—

(i) the disproportionate financial impact of current law on certain hospitals (or hospitals in certain locations) due to difficulties in arranging for appropriate post-hospital care, such as difficulties resulting from a shortage of beds in skilled nursing facilities where those hospitals are located and from the source of payment for such care, and

(ii) the risk of inappropriate discharge to a non-institutional or inappropriate institutional setting of individuals who need post-hospital services in a skilled nursing facility, and

(B) the administrative mechanisms that can be used to prevent inappropriate payments for administratively necessary days.

(4) REPORT ON STUDY.—The Secretary shall report to Congress on the results of the study not later than January 1, 1989.

(f) EXTENDING WAIVER OF LIABILITY PROVISIONS TO HOSPICE PROGRAMS.— 42 USC 1395y note.

(1) IN GENERAL.—The Secretary of Health and Human Services shall, for purposes of determining whether payments to a hospice program should be denied pursuant to section 1862(a)(1)(C) of the Social Security Act, apply (under section 1879(a) of such Act) a presumption of compliance of 2.5 percent (based on the number of days of hospice care billed) in a manner substantially similar to that provided to home health agencies under policies in effect as of July 1, 1985. 42 USC 1395y. *Infra.*

(2) EFFECTIVE DATE.—Paragraph (1) shall apply to hospice care furnished on or after the first day of the first month that begins at least 6 months after the date of the enactment of this Act and before November 1, 1988.

(g) EXTENSION OF WAIVER OF LIABILITY PROVISIONS TO CERTAIN COVERAGE DENIALS FOR HOME HEALTH SERVICES.—

(1) IN GENERAL.—Section 1879 of the Social Security Act (42 U.S.C. 1395pp) is amended—

(A) in subsection (a)(1), by inserting "or by reason of a coverage denial described in subsection (g)" after "section 1862(a)(1) or (9)";

(B) in the first sentence of subsection (a), by inserting "and as though the coverage denial described in subsection (g) had not occurred" before the period at the end;

100 STAT. 1992

(C) in the third sentence of subsection (a), by inserting "or by reason of a coverage denial described in subsection (g)" after "section 1862(a)(1) or (9)"; 42 USC 1395y.

(D) in subsection (c), by inserting "or by reason of a coverage denial described in subsection (g)" after "section 1862(a)(1) or (9)"; and

(E) by adding at the end the following new subsections:

"(f)(1) A home health agency which meets the applicable requirements of paragraphs (3) and (4) shall be presumed to meet the requirement of subsection (a)(2) with respect to any coverage denial described in subsection (g).

"(2) The presumption of paragraph (1) with respect to specific services may be rebutted by actual or imputed knowledge of the facts described in subsection (a)(2), including any of the following:

"(A) Notice by the fiscal intermediary of the fact that payment may not be made under this title with respect to the services.

"(B) It is clear and obvious that the provider should have known at the time the services were furnished that they were excluded from coverage.

"(3) The requirements of this paragraph are as follows:

"(A) The agency complies with requirements of the Secretary under this title respecting timely submittal of bills for payment and medical documentation.

"(B) The agency program has reasonable procedures to notify promptly each patient (and the patient's physician) where it is determined that a patient is being or will be furnished items or services which are excluded from coverage under this title.

"(4) The requirement of this paragraph is that, on the basis of bills submitted by a home health agency during the previous quarter, the rate of denial of bills for the agency by reason of a coverage denial described in subsection (g) does not exceed 2.5 percent, computed based on visits for home health services billed.

"(5) In this subsection, the term 'fiscal intermediary' means, with respect to a home health agency, an agency or organization with an agreement under section 1816 with respect to the agency. 42 USC 1395h.

"(g) The coverage denial described in this subsection is, with respect to the provision of home health services to an individual, a failure to meet the requirements of section 1814(a)(2)(C) or section 1835(a)(2)(A) in that the individual—

42 USC 1395f.
42 USC 1395n.

"(1) is or was not confined to his home, or

"(2) does or did not need skilled nursing care on an intermittent basis."

42 USC 1395pp note.

(2) Reports.—The Secretary of Health and Human Services shall report to Congress annually in March of 1987 and 1988—

42 USC 1395.

(A) information on the frequency and distribution (by type of provider) of denials of bills for payment under title XVIII of the Social Security Act for extended care services, home health services, and hospice care, by reason of section 1862(a)(1) or (9) of such Act and coverage denials described in section 1879(g) of such Act, including—

Ante, p. 1991.

(i) the reasons for such denials,

(ii) the extent to which payments were nonetheless made because of section 1879 of such Act, and

(iii) the rate of reversals of such denials, and

(B) such other information as may be appropriate to evaluate the appropriateness of any percentage standards established for the granting of favorable presumptions with respect to such denials.

42 USC 1395pp note.

(3) Effective date.—The amendments made by paragraph (1) shall apply to coverage denials occurring on or after July 1, 1987, and before October 1, 1989.

42 USC 1395x note.

(h) Development of Uniform Needs Assessment Instrument.—

(1) Development.—The Secretary of Health and Human Services shall develop a uniform needs assessment instrument that—

(A) evaluates—

(i) the functional capacity of an individual,

(ii) the nursing and other care requirements of the individual to meet health care needs and to assist with functional incapacities, and

(iii) the social and familial resources available to the individual to meet those requirements; and

(B) can be used by discharge planners, hospitals, nursing facilities, other health care providers, and fiscal intermediaries in evaluating an individual's need for post-hospital extended care services, home health services, and long-term care services of a health-related or supportive nature.

The Secretary may develop more than one such instrument for use in different situations.

(2) Advisory panel.—The Secretary shall develop any instrument in consultation with an advisory panel, appointed by the Secretary, that includes experts in the delivery of post-hospital extended care services, home health services, and long-term care services and includes representatives of hospitals, of physicians, of skilled nursing facilities, of home health agencies, of long-term care providers, of fiscal intermediaries, and of medicare beneficiaries.

(3) Report on instrument.—The Secretary shall report to Congress, not later than January 1, 1989, on the instrument or instruments developed under this section. The report shall recommendations for the appropriate use of such instrument or instruments.

(i) Including in Annual Reports on Prospective Payment System Information on Quality of Post-Hospital Care.—

42 USC 1395ww note.

(1) In general.—Section 603(a)(2) of the Social Security Amendments of 1983 is amended—

(A) by striking "1987" in subparagraph (A) and inserting "1989", and

(B) by adding at the end the following new subparagraph:

"(E) In each annual report to Congress under subparagraph (A), the Secretary shall include—

"(i) an evaluation of the adequacy of the procedures for assuring quality of post-hospital services furnished under title XVIII of the Social Security Act,

42 USC 1395.

"(ii) an assessment of problems that have prevented groups of medicare beneficiaries (including those eligible for medical assistance under title XIX of such Act) from receiving appropriate post-hospital services covered under such title, and

42 USC 1396.

"(iii) information on reconsiderations and appeals taken under title XVIII of such Act with respect to payment for post-hospital services.".

100 STAT. 1994

(2) Effective date.—The amendment made by paragraph (1)(B) shall apply to reports for years beginning with 1986.

42 USC 1395ww note.

(k) Prior and Concurrent Authorization Demonstration Project.—

42 USC 1395x note.

(1) In general.—The Secretary of Health and Human Services shall conduct a demonstration program concerning prior and concurrent authorization for post-hospital extended care services and home health services furnished under part A or part B of title XVIII of the Social Security Act.

Hospitals.

42 USC 1395c, 1395j.

(2) Scope.—The program shall include at least four projects and shall be initiated by not later than January 1, 1987.

(3) Consultation and Monitoring.—The program shall be developed in consultation with an advisory panel that includes experts in the delivery of post-hospital extended care services, home health services, and long-term care services and includes representatives of hospitals, of physicians, of skilled nursing facilities, of home health agencies, of long-term care providers, of fiscal intermediaries, and of medicare beneficiaries. The Secretary shall monitor the acceptance of individuals entitled to benefits under title XVIII of the Social Security Act by providers to ensure that the placement of such individuals is not delayed until the results of prior and concurrent review are known.

Hospitals.
Physicians.

42 USC 1395.

(4) Evaluation and report.—The Secretary shall evaluate the demonstration program conducted under this subsection and shall report to Congress on such evaluation no later than February 1, 1989. Such evaluation and report shall address—

(A) the administrative and program costs for prior and concurrent authorization across demonstration projects and in comparison to administrative and program costs under the current system of retroactive review, including costs for uncovered services paid under the waiver of liability which would not be incurred under prior or concurrent authorization;

(B) impact of prior or concurrent authorization on access to and availability of extended care services and home health services in comparison to the current system (including costs to providers) and on timely discharge of hospital inpatients; and

(C) accuracy and associated cost savings of payment determinations and rates of claim reversals under prior or concurrent authorization versus the current system.

(5) Funding.—Expenditures made for the demonstration program shall be made from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this subsection.

Grants.
Contracts.
42 USC 1395i.

42 USC 1395.

(6) **Waiver of medicare requirements.**—The Secretary shall waive compliance with such requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration program.

100 STAT. 1995

SEC. 9306. PAYMENTS TO LARGE RURAL HOSPITALS SERVING A DISPROPORTIONATE SHARE OF LOW-INCOME PATIENTS.

(a) **Qualifying Hospitals.**—Section 1886(d)(5)(F)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(v)) is amended by adding at the end the following new sentence:
"A hospital located in a rural area and with 500 or more beds also 'serves a significantly disproportionate number of low income patients' for a cost reporting period if the hospital has a disproportionate patient percentage (as defined in clause (vi)) for that period which equals or exceeds a percentage specified by the Secretary.".

(b) **Payment Amount.**—Section 1886(d)(5)(F)(iv) of such Act is amended—

(1) in subclause (I), by inserting "or is described in the second sentence of subclause (III)" after "100 or more beds", and

(2) in subclause (III), by inserting "and is not described in the second sentence of clause (v)" after "rural area".

(c) **Extension of Disproportionate Share Provision.**—Section 1886(d) of such Act is further amended, in paragraphs (2)(C)(iv), (3)(C)(ii), (5)(B)(ii), and (5)(F)(i), by striking "1988" each place it appears and inserting "1989".

42 USC 1395ww note.

(d) **Effective Date.**—The amendments made by subsections (a) and (b) shall apply to discharges occurring on or after October 1, 1986.

SEC. 9307. TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS RELATING TO PART A.

(a) **Temporary Waiver of Inpatient Limitations for the Connecticut Hospice, Inc.**—With respect to the Connecticut Hospice, Inc., for hospice care provided before October 1, 1988, the reference in section 1861(dd)(2)(A)(iii) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(A)(iii)) to "20 percent" is deemed a reference to "50 percent".

42 USC 1395c.

42 USC 1395b-1, 1395*ll*.
86 Stat. 1390.

(b) **Massachusetts Medicare Repayment.**—The Secretary of Health and Human Services shall not, on or after the date of the enactment of this section and before January 1, 1988, recoup from, or otherwise reduce payments to, hospitals in the State of Massachusetts because of alleged overpayments to such hospitals under part A of title XVIII of the Social Security Act which occurred during the period of the State-wide hospital reimbursement demonstration project conducted in that State, between October 1, 1982, and June 30, 1986, under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972.

42 USC 1395ww.
Post, p. 2095.

(c) **Part A COBRA Technical Corrections.**—(1) Effective as if included in the enactment of the Tax Reform Act of 1986, if House Concurrent Resolution 395 (99th Congress, 2d Session) has not been adopted, section 1895(b) of the Tax Reform Act of 1986 is amended—

(A) by striking paragraph (1), and

(B) by striking subparagraphs (A) and (B) of paragraph (2).

(2) Effective as if included in the enactment of the Tax Reform Act of 1986—

(A) section 1895(b) of such Act is amended, in subparagraph (A)(ii) of the paragraph relating to "Physician payment", by inserting before the period the following: "the first place it appears", and

42 USC 162.

(B) section 1895(d)(5)(A) of such Act is amended by striking "162(k)(2)" and inserting "162(k)(5)".

(3) If House Concurrent Resolution 395 (99th Congress, 2d Session) has been adopted, effective for discharges occurring on or after May 1, 1986, section 1886(d)(5)(F)(vi)(I) of the Social Security Act is amended—

42 USC 1395ww.

(A) by striking "supplementary" and inserting "supplemental", and

(B) by striking "fiscal year" and inserting "period".

(4) Paragraphs (2) and (3) of section 1867(b) of the Social Security Act are amended by striking "legally responsible".

42 USC 1395dd. *Ante*, p. 164.

(d) MISCELLANEOUS ACCOUNTING PROVISION.—Effective on the date of the enactment of Public Law 99-107, in applying section 5(a) of such Act, a cost reporting period beginning on September 28, 29, or 30 is deemed to begin on October 1 and any reference to September 30 is deemed also to be a reference to September 27.

Effective date. 42 USC 1395ww note. 42 USC 1395ww note.

PART 2—PROVISIONS RELATING TO PARTS A AND B

SEC. 9311. PERIODIC INTERIM PAYMENT SYSTEM (PIP) FOR DRG HOSPITALS AND PROMPT PAYMENT FOR MEDICARE PROVIDERS.

(a) PERIODIC INTERIM PAYMENTS.—

(1) IN GENERAL.—Section 1815 of the Social Security Act (42 U.S.C. 1395g) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary shall provide payment under this part for inpatient hospital services furnished by a subsection (d) hospital (as defined in section 1886(d)(1)(B), and including a distinct psychiatric or rehabilitation unit of such a hospital) and a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)) on a periodic interim payment basis (rather than on the basis of bills actually submitted) in the following cases:

Puerto Rico. 42 USC 1395ww.

"(A) Upon the request of a hospital which is paid through an agency or organization with an agreement with the Secretary under section 1816, if the agency or organization, for three consecutive calendar months, fails to meet the requirements of subsection (c)(2) of such section and if the hospital meets the requirements (in effect as of October 1, 1986) applicable to payment on such a basis, until such time as the agency or organization meets such requirements for three consecutive calendar months.

42 USC 1395h.

"(B) In the case of hospital that—

"(i) has a disproportionate share adjustment percentage (as established in clause (iv) of such section) of at least 5.1 percent (as computed for purposes of establishing the average standardized amounts for discharges occurring during fiscal year 1987), and

"(ii) requests payment on such basis,

but only if the hospital was being paid for inpatient hospital services on such a periodic interim payment basis as of June 30, 1987, and continues to meet the requirements (in effect as of October 1, 1986) applicable to payment on such a basis.

"(C) In the case of a hospital that—

"(i) is located in a rural area,

Rural areas.

"(ii) has 100 or fewer beds, and

"(iii) requests payment on such basis,

but only if the hospital was being paid for inpatient hospital services on such a periodic interim payment basis as of June 30, 1987, and continues to meet the requirements (in effect as of October 1, 1986) applicable to payment on such a basis.

"(2) The Secretary shall provide (or continue to provide) for payment on a periodic interim payment basis (under the standards established under section 405.454(j) of title 42, Code of Federal Regulations, as in effect on October 1, 1986) with respect to—

42 USC 1395ww.

"(A) inpatient hospital services of a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B));

State and local governments.
42 USC 1395f.

"(B) a hospital which is receiving payment under a State hospital reimbursement system under section 1814(b)(3) or 1886(c), if payment on a periodic interim payment basis is an integral part of such reimbursement system;

"(C) extended care services;

"(D) home health services; and

"(E) hospice care;

if the provider of such services elects to receive, and qualifies for, such payments.

Puerto Rico.

"(3) In the case of a subsection (d) hospital or a subsection (d) Puerto Rico hospital (as defined for purposes of section 1886) which has significant cash flow problems resulting from operations of its intermediary or from unusual circumstances of the hospital's operation, the Secretary may make available appropriate accelerated payments.".

Claims.
42 USC 1395g note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to claims received on or after July 1, 1987.

42 USC 1395g note.
42 USC 1395c.

(3) TRANSITION.—Upon the request of a hospital which—

(A) as of June 30, 1987, is receiving payments under part A of title XVIII of such Act for inpatient hospital services on a periodic interim payment basis,

(B) requests continuation of payment on such basis, and

Claims.
42 USC 1395h.

(C) is paid through an agency or organization with an agreement under section 1816 of such Act,

the Secretary of Health and Human Services shall continue payment on such a basis until not earlier than the end of the first period of three consecutive calendar months (beginning no earlier than April 1987) during all of which the agency or organization has met the requirements of section 1816(c)(2) of such Act (relating to prompt payment of claims).

(b) PROMPT PAYMENT OF CLAIMS UNDER PART A.—Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

Claims.

"(2)(A) Each agreement under this section shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to not less than 95 percent of all claims submitted under this title—

"(i) which are clean claims, and

"(ii) for which payment is not made on a periodic interim payment basis,

within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph:

"(i) The term 'clean claim' means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this title.

"(ii) The term 'applicable number of calendar days' means—

"(I) with respect to claims received in the 12-month period beginning October 1, 1986, 30 calendar days,

"(II) with respect to claims received in the 12-month period beginning October 1, 1987, 26 calendar days,

"(III) with respect to claims received in the 12-month period beginning October 1, 1988, 25 calendar days, and

"(IV) with respect to claims received in the 12-month period beginning October 1, 1989, and claims received in any succeeding 12-month period, 24 calendar days.

Claims.

"(C) If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in clause (ii) of subparagraph (B)) after a clean claim (as defined in clause (i) of such subparagraph) is received from a hospital, skilled nursing facility, home health agency, or hospice program that is not receiving payments on a periodic interim payment basis with respect to such services, interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made.".

(c) Prompt Payment of Claims Under Part B.—Section 1842(c) of the Social Security Act (42 U.S.C. 1395u(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

Contracts.
Claims.

"(2)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to not less than 95 percent of all claims submitted under this part—

"(i) which are clean claims, and

"(ii) for which payment is not made on a periodic interim payment basis,

within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph:

"(i) The term 'clean claim' means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this part.

"(ii) The term 'applicable number of calendar days' means—

"(I) with respect to claims received in the 12-month period beginning October 1, 1986, 30 calendar days,

"(II) with respect to claims received in the 12-month period beginning October 1, 1987, 26 calendar days (or 19 calendar days with respect to claims submitted by participating physicians),

"(III) with respect to claims received in the 12-month period beginning October 1, 1988, 25 calendar days (or 18 calendar days with respect to claims submitted by participating physicians), and

"(IV) with respect to claims received in the 12-month period beginning October 1, 1989, and claims received in any succeeding 12-month period, 24 calendar days (or 17 calendar days with respect to claims submitted by participating physicians).

100 STAT. 1999

Claims.

"(C) If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in clause (ii) of subparagraph (B)) after a clean claim (as defined in clause (i) of such subparagraph) is received, interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made.".

(d) Effective Dates.—

42 USC 1395h note.
Claims.

(1) Except as provided in paragraph (2), the amendments made by subsections (b) and (c) shall apply to claims received on or after November 1, 1986.

Ante, pp. 1997, 1998.
Claims.

(2) Sections 1816(c)(2)(C)) and 1842(c)(2)(C) of the Social Security Act, as added by such amendments, shall apply to claims received on or after April 1, 1987.

Contracts.

(3) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this Act on a timely basis.

SEC. 9312. HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

42 USC 1395mm note.

(a) REPEAL OF "2 FOR 1" CONVERSION REQUIREMENT FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS.—Section 114(c)(2) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end the following new subparagraph:

"(E) The preceding provisions of this paragraph shall not to apply to payments made for current, nonrisk medicare enrollees for months beginning with April 1987.".

(b) REQUIRING THE PROVISION OF AN EXPLANATION OF ENROLLEE RIGHTS.—

(1) IN GENERAL.—Subsection (c)(3) of section 1876 of the Social Security Act (42 U.S.C. 1395mm) is amended by adding at the end the following new subparagraph:

"(E) Each eligible organization shall provide each enrollee, at the time of enrollment and not less frequently than annually thereafter, an explanation of the enrollee's rights under this section, including an explanation of—

"(i) the enrollee's rights to benefits from the organization,

"(ii) the restrictions on payments under this title for services furnished other than by or through the organization,

"(iii) out-of-area coverage provided by the organization,

"(iv) the organization's coverage of emergency services and urgently needed care, and

"(v) appeal rights of enrollees.".

42 USC 1395mm note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 1987, and shall apply to enrollments effected on or after such date.

(c) RESTRICTING WAIVER OF REQUIREMENT OF 50 PERCENT NON-MEDICARE ENROLLMENT.—

(1) RESTRICTION ON NEW WAIVERS.—Paragraph (2) of subsection (f) of such section is amended by striking all that follows "only" and inserting a dash and the following:

100 STAT. 2000

"(A) to the extent that more than 50 percent of the population of the area served by the organization consists of individuals who are entitled to benefits under this title or under a State plan approved under title XIX, or

42 USC 1396. Contracts. State and local governments.

"(B) in the case of an eligible organization that is owned and operated by a governmental entity, only with respect to a period of three years beginning on the date the organization first enters into a contract under this section, and only if the organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.".

(2) SANCTIONS FOR NONCOMPLIANCE.—

(A) SUSPENSION OF ENROLLMENT OR PAYMENT FOR NEW ENROLLEES.—Such subsection is further amended by adding at the end the following new paragraph:

"(3) If the Secretary determines that an eligible organization has failed to comply with the requirements of this subsection, the Secretary may provide for the suspension of enrollment of individuals under this section or of payment to the organization under this section for individuals newly enrolled with the organization, after the date the Secretary notifies the organization of such noncompliance.".

(B) TERMINATION OF CONTRACT.—Subsection (i)(1)(C) of such section is amended by striking "and (e)" and insert "(e), and (f)".

42 USC 1395mm note.

(3) EFFECTIVE DATES.—

(A) NEW RESTRICTION.—The amendment made by paragraph (1) shall apply to modifications and waivers granted after the date of the enactment of this Act.

(B) SANCTIONS FOR NONCOMPLIANCE.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(C) TREATMENT OF CURRENT WAIVERS.—In the case of an eligible organization (or successor organization) that—

(i) as of the date of the enactment of this Act, has been granted, under paragraph (2) of section 1876(f) of the Social Security Act, a modification or waiver of the requirement imposed by paragraph (1) of that section, but

42 USC 1395mm.

(ii) does not meet the requirement for such modification or waiver under the amendment made by paragraph (1) of this subsection,

the organization shall make, and continue to make, reasonable efforts to meet scheduled enrollment goals, consistent with a schedule of compliance approved by the Secretary of Health and Human Services. If the Secretary determines that the organization has complied, or made significant progress towards compliance, with such schedule of compliance, the Secretary may extend such waiver. If the Secretary determines that the organization has not complied with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of the Social Security Act (as amended by this section) effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.

(d) REQUIRING PROMPT PAYMENT OF CLAIMS.—

100 STAT. 2001

(1) IN GENERAL.—Subsection (g) of such section is amended by adding at the end the following new paragraph:

"(6)(A) A risk-sharing contract under this section shall require the eligible organization to provide prompt payment (consistent with the provisions of sections 1816(c)(2) and 1842(c)(2)) of claims submitted for services and supplies furnished to individuals pursuant to such contract, if the services or supplies are not furnished under a contract between the organization and the provider or supplier.

Contracts.

Ante, pp. 1997, 1998.

"(B) In the case of an eligible organization which the Secretary determines, after notice and opportunity for a hearing, has failed to make payments of amounts in compliance with subparagraph (A), the Secretary may provide for direct payment of the amounts owed to providers and suppliers for such covered services furnished to individuals enrolled under this section under the contract. If the Secretary provides for such direct payments, the Secretary shall provide for an appropriate reduction in the amount of payments otherwise made to the organization under this section to reflect the amount of the Secretary's payments (and costs incurred by the Secretary in making such payments).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to risk-sharing contracts under section 1876 of the Social Security Act with respect to services furnished on or after January 1, 1987.

Contracts.
42 USC 1395mm note.

(e) REQUIRING ACCESS TO FINANCIAL RECORDS AND DISCLOSURE OF INTERNAL LOANS.—

(1) IN GENERAL.—Subsection (i)(3)(C) of such section is amended—

(A) by striking "and" at the end,

(B) by inserting "(i)" after "(C)", and

(C) by adding at the end the following new clauses:

"(ii) shall require the organization to provide and supply information (described in section 1866(b)(2)(C)(ii)) in the manner such information is required to be provided or supplied under that section;

42 USC 1395cc.

"(iii) shall require the organization to notify the Secretary of loans and other special financial arrangements which are made between the organization and subcontractors, affiliates, and related parties; and".

Loans.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contracts as of January 1, 1987.

Contracts.
42 USC 1395mm note.

(f) AUTHORITY TO IMPOSE CIVIL MONEY PENALTIES.—Subsection (i) of such section is amended by adding at the end the following new paragraph:

Contracts.

"(6)(A) Any eligible organization with a risk-sharing contract under this section that fails substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under such contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals, is subject to a civil money penalty of not more than $10,000 for each such failure.

Post, pp. 2003, 2008.

"(B) The provisions of section 1128A (other than subsection (a)) shall apply to a civil money penalty under subparagraph (A) in the same manner as they apply to a civil money penalty under that section.".

Contracts.
42 USC 1395 mm note.

(g) STUDY OF AAPCC AND ACR.—The Secretary of Health and Human Services shall provide, through contract with an appropriate organization, for a study of the methods by which—

42 USC 1395mm.

100 STAT. 2002

(1) the adjusted average per capita cost ("AAPCC", as defined in section 1876(a)(4) of the Social Security Act) can be refined to more accurately reflect the average cost of providing care to different classes of patients, and

(2) the adjusted community rate ("ACR", as defined in section 1876(e)(3) of such Act) can be refined.

The Secretary shall submit to Congress, by not later than January 1, 1988, specific legislative recommendations concerning methods by which the calculation of the AAPCC and the ACR can be refined.

42 USC 1395mm note.

(h) ALLOWING MEDICARE BENEFICIARIES TO DISENROLL AT A LOCAL SOCIAL SECURITY OFFICE.—The Secretary of Health and Human Services shall provide that individuals enrolled with an eligible organization under section 1876 of the Social Security Act may disenroll, on and after June 1, 1987, at any local office of the Social Security Administration.

42 USC 1395mm note.

(i) USE OF RESERVE FUNDS.—Notwithstanding any provision of section 1876(g)(5) of the Social Security Act (42 U.S.C. 1395mm(g)(5)) to the contrary, funds reserved by an eligible organization under such section before the date of the enactment of this Act may be applied, at the organization's option, to offset the amount of any reduction in payment amounts to the organization effected under Public Law 99-177 during fiscal year 1986.

99 Stat. 1037.

SEC. 9313. PROVISIONS RELATING TO IMPROVEMENT OF QUALITY OF CARE.

(a) PERMITTING PROVIDER REPRESENTATION OF BENEFICIARIES.—

(1) IN GENERAL.—Section 1869(b)(1) of the Social Security Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end the following new sentence: "Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item. Any person that furnishes services or items to an individual may not represent an individual under this subsection with respect to the issue described in section 1879(a)(2) unless the person has waived any rights for payment from the beneficiary with respect to the services or items involved in the appeal. If a person furnishes services or items to an individual and represents the individual under this subsection, the person may not impose any financial liability on such individual in connection with such representation.".

42 USC 406, 1302, 1395hh.

42 USC 1395pp.

(2) TREATMENT OF COSTS OF UNSUCCESSFUL APPEAL.—Section 1861(v)(1) of such Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end the following new subparagraph:

"(R) In determining such reasonable cost, costs incurred by a provider of services representing a beneficiary in an unsuccessful appeal of a determination described in section 1869(b) shall not be allowable as reasonable costs.".

(3) Effective date.—The amendments made by this paragraph take effect on the date of the enactment of this Act.

42 USC 1395x note.

(b) Permitting Review of Technical Denials.—

(1) In general.—Section 1869 of such Act is further amended—

100 STAT. 2003

(A) in subsection (a), by inserting before "shall" the following: "and any other determination with respect to a claim for benefits under part A", and

(B) in subsection (b)(1)—

(i) by striking "or" at the end of subparagraph (B),

(ii) by inserting ", or" at the end of subparagraph (C), and

(iii) by inserting after subparagraph (C) the following new subparagraph:

"(D) any other denial (other than under part B of title XI) of a claim for benefits under part A or a claim for benefits with respect to home health services under part B,".

42 USC 1320c.

(2) Effective date.—The amendments made by this subsection take effect on the date of the enactment of this Act.

42 USC 1395ff note.

(c) Prohibition of Certain Physician Incentive Plans.—

(1) Making certain plans subject to civil monetary penalties.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended—

Post, p. 2008.

(A) by striking "subsection (a)" each place it appears and inserting "subsection (a) or (b)",

(B) in subsection (a)(1), by striking "(h)(1)" and "(h)(2)" and inserting "(i)(1)" and "(i)(2)", respectively,

(C) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)",

(D) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively, and

(E) by inserting after subsection (a) the following new subsection:

"(b)(1) If a hospital, an eligible organization with a risk-sharing contract under section 1876, or an entity with a contract under section 1903(m) knowingly makes a payment, directly or indirectly, to a physician as an inducement to reduce or limit services provided with respect to individuals who—

Contracts.
Ante, p. 1999.
42 USC 1396b.

"(A) are entitled to benefits under part A or part B of title XVII or to medical assistance under a State plan approved under title XIX,

"(B) in the case of an eligible organization or an entity, are enrolled with the organization or entity, and

State and local governments.
42 USC 300u.
42 USC 1396.

"(C) are under the direct care of the physician,

the hospital or organization shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each such individual with respect to whom the payment is made.

"(2) Any physician who knowingly accepts receipt of a payment described in paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for individual described in such paragraph with respect to whom the payment is made."

(2) Effective date.—The amendments made by paragraph (1) shall apply to—

42 USC 1320a-7a note.

(A) payments by hospitals occurring more than 6 months after the date of the enactment of this Act, and

(B) payments by eligible organizations or entities occurring on or after April 1, 1989.

(3) Study.—The Secretary of Health and Human Services shall report to Congress, not later than January 1, 1988, concerning incentive arrangements offered by health mainte-

Reports.
Physicians.
42 USC 1320a-7a note.

100 STAT. 2004

nance organizations and competitive medical plans to physicians. The report shall—

(A) review the type of incentive arrangements in common use,

(B) evaluate their potential to pressure improperly physicians to reduce or limit services in a medically inappropriate manner, and

Post, pp. 2003, 2008.

(C) make recommendations concerning providing for an exception, to the prohibition contained in section 1128A(b) of the Social Security Act, for incentive arrangements that may be used by such organizations and plans to encourage efficiency in the utilization of medical and other services but that do not have a substantial potential for adverse effect on quality.

42 USC 1395*ll* note.

(d) STUDY TO DEVELOP A STRATEGY FOR QUALITY REVIEW AND ASSURANCE.—

42 USC 1395.

(1) IN GENERAL.—The Secretary of Health and Human Services shall arrange for a study to design a strategy for reviewing and assuring the quality of care for which payment may be made under title XVIII of the Social Security Act.

(2) ITEMS INCLUDED IN STUDY.—Among other items, the study shall—

(A) identify the appropriate considerations which should be used in defining "quality of care";

(B) evaluate the relative roles of structure, process, and outcome standards in assuring quality of care;

(C) develop prototype criteria and standards for defining and measuring quality of care;

(D) evaluate the adequacy and focus of the current methods for measuring, reviewing, and assuring quality of care;

Research and development.

(E) evaluate the current research on methodologies for measuring quality of care, and suggest areas of research needed for further progress;

(F) evaluate the adequacy and range of methods available to correct or prevent identified problems with quality of care;

(G) review mechanisms available for promoting, coordinating, and supervising at the national level quality review and assurance activities; and

(H) develop general criteria which may be used in establishing priorities in the allocation of funds and personnel in reviewing and assuring quality of care.

(3) REPORT.—The Secretary shall submit to Congress, not later than 2 years after the date of the enactment of this Act, a report on the study. Such report shall address the items described in paragraph (2) and shall include recommendations with respect to strengthening quality assurance and review activities for services furnished under the medicare program.

(4) ARRANGEMENTS FOR STUDY.—(A) The Secretary shall request the National Academy of Sciences, acting through appropriate units, to submit an application to conduct the study described in this subsection. If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more

100 STAT. 2005

appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

(B) In developing plans for the conduct of the study, the Secretary shall assure that consumer and provider groups, peer review organizations, the Joint Commission on Accreditation of Hospitals, professional societies, and private purchasers of care with experience and expertise in the monitoring of the quality of care are consulted.

(5) COORDINATION.—The Secretary shall designate an office with responsibilities for coordinating studies, under this subsection and other authority, relating to the quality of services furnished to medicare and medicaid beneficiaries, in particular studies relating to the evaluation of the prospective payment system on the quality of health care provided to medicare beneficiaries. These responsibilities shall include assessing the feasibility and costs of alternative studies in relation to their importance, overseeing and coordinating access to needed data, and maintaining a clearinghouse for both public and private sector studies.

SEC. 9314. DIRECT COSTS OF GRADUATE MEDICAL EDUCATION.

(a) CLARIFYING COUNTING OF TIME SPENT IN OUTPATIENT SETTINGS.—Section 1886(h)(4) of such Act, as amended by section 1895(b) of the Tax Reform Act of 1986, is amended by adding at the end the following new subparagraph: 42 USC 1395ww. *Post*, p. 2095.

"(E) COUNTING TIME SPENT IN OUTPATIENT SETTINGS.—Such rules shall provide that only time spent in activities relating to patient care shall be counted and that all the time so spent by a resident under an approved medical residency training program shall be counted towards the determination of full-time equivalency, without regard to the setting in which the activities are performed, if the hospital incurs all, or substantially all, of the costs for the training program in that setting.". Hospitals.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for approved residency training programs as of July 1, 1987. 42 USC 1395 ww note.

SEC. 9315. PAYMENTS FOR HOME HEALTH SERVICES.

(a) LIMITATIONS ON PAYMENT FOR HOME HEALTH SERVICES.—Section 1861(v)(1)(L) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)) is amended—

(1) by inserting "(i)" after "(L)", and

(2) by striking "the 75th percentile" and all that follows through "as the Secretary may determine." and inserting in lieu thereof "for cost reporting periods beginning on or after—

"(I) July 1, 1985, and before July 1, 1986, 120 percent,
"(II) July 1, 1986, and before July 1, 1987, 115 percent, or
"(III) July 1, 1987, 112 percent,

of the mean of the labor-related and nonlabor per visit costs for free standing home health agencies.

"(ii) Effective for cost reporting periods beginning on or after July 1, 1986, such limitations shall be applied on an aggregate basis for the agency, rather than on a discipline specific basis, with appropriate adjustment for administrative and general costs of hospital-based agencies.". Effective date.

100 STAT. 2006

(b) CONSIDERATIONS IN ESTABLISHING LIMITS.—In establishing limitations under section 1861(v)(1)(L) of the Social Security Act on payment for home health services for cost reporting periods beginning on or after July 1, 1986, the Secretary of Health and Human Services shall— 42 USC 1395x note.

(1) base such limitations on the most recent data available, which data may be for cost reporting periods beginning no earlier than October 1, 1983; and

(2) take into account the changes in costs of home health agencies for billing and verification procedures that result from the Secretary's changing the requirements for such procedures, to the extent the changes in costs are not reflected in such data.

Paragraph (2) shall apply to changes in requirements effected before, on, or after July 1, 1986.

(c) GAO REPORT.—The Comptroller General shall study and report to Congress, not later than February 1, 1988, on— 42 USC 1395x note.

(1) the appropriateness and impact on medicare beneficiaries

of applying the per visit cost limits for home health services under section 1861(v)(1)(L) of the Social Security Act on a discipline-specific basis, rather than on an aggregate basis, for all home health services furnished by an agency, and

(2) the appropriateness of the percentage limits established under such section.

SEC. 9316. ESTABLISHMENT OF PATIENT OUTCOME ASSESSMENT RESEARCH PROGRAM.

(a) IN GENERAL.—Section 1875 of the Social Security Act (42 U.S.C. 1395ll) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall establish a patient outcome assessment research program (in this subsection referred to as the 'research program') to promote research with respect to patient outcomes of selected medical treatments and surgical procedures for the purpose of assessing their appropriateness, necessity, and effectiveness. The research program shall include—

"(A) reorganization of data relating to claims under parts A and B of this title in a manner that facilitates research with respect to patient outcomes,

"(B) assessments of the appropriateness of admissions and discharges,

"(C) assessments of the extent of professional uncertainty regarding efficacy,

"(D) development of improved methods for measuring patient outcomes,

"(E) evaluations of patient outcomes, and

Physicians.
Contracts.

42 USC 1320c.

"(F) evaluation of the effects on physicians' practice patterns of the dissemination to physicians and peer review organizations with contracts under part B of title XI of the findings of the research conducted under subparagraphs (B), (C), (D), and (E).

"(2) In selecting treatments and procedures to be studied, the Secretary shall give priority to those medical and surgical treatments and procedures—

"(A) for which data indicate a highly (or potentially highly) variable pattern of utilization among beneficiaries under this title in different geographic areas, and

"(B) which are significant (or potentially significant) for purposes of this title in terms of utilization by beneficiaries, length of hospitalization associated with the treatment or procedure, costs to the research program, and risk involved to the beneficiary.

Appropriation authorization.

"(3) For purposes of carrying out the research program, there are authorized to be appropriated—

"(A) from the Federal Hospital Insurance Trust Fund $4,000,000 for fiscal year 1987 and $5,000,000 for each of fiscal years 1988 and 1989, and

"(B) from the Federal Supplementary Medical Insurance Trust Fund $2,000,000 for fiscal years 1987 and $2,500,000 for each of fiscal years 1988 and 1989.

"(4) Not less than 90 percent of the amount appropriated for any fiscal year to carry out the research program shall be used to fund grants to, and cooperative agreements with, non-Federal entities to conduct research described in paragraph (1). The remainder may be used by the Secretary to provide such research by Federal entities and for administrative costs.

Grants.
Contracts.

42 USC 242c.

"(5) The research program shall be administered by the National Center for Health Services Research and Health Care Technology established under section 305 of the Public Health Service Act (in this subsection referred to as the 'Center'). The Center shall establish application procedures for grants and cooperative agreements, and shall establish peer review panels to review all such applications and all research findings. The Center shall consult with the council on health care technology (established under a grant under section 309 of the Public Health Service Act) in establishing the scope and priorities for the research program and shall report periodically to any such council on the status of the program.

Reports.

42 USC 242n.

"(6) The Secretary shall make available data derived from the programs under this title and other programs administered by the Secretary for use in the research program.

"(7) The Center shall report to the Committees on Finance and Appropriations of the Senate and the Committees on Ways and Means, Energy and Commerce, and Appropriations of the House of Representatives not later than 18 months after the date of the enactment of this Act, and annually thereafter, with respect to the findings under the research program. In cooperation with appropriate medical specialty groups, the Center shall disseminate such findings as widely as possible, including disseminating such findings to each peer review organization which has a contract under part B of title XI."

Reports.
Contracts.

42 USC 1320c.

(b) Permitting Services To Be Provided Under Research Program.—Section 1862(a)(1) of such Act (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the semicolon at the end of subparagraph (D) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(E) in the case of research conducted pursuant to section 1875(c), which is not reasonable and necessary to carry out the purposes of that section;".

Ante, p. 2006.

100 STAT. 2008

SEC. 9317. IMPROVEMENTS IN CIVIL MONETARY PENALTY AND EXCLUSION PROVISIONS.

(a) Collateral Estoppel Effect of Prior Federal Criminal Convictions.—Section 1128A(c) of the Social Security Act (42 U.S.C. 1320a-7a(c)), as redesignated by section 9313(c), is amended by adding at the end the following new paragraph:

"(3) In a proceeding under subsection (a) or (b) which—

"(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal crime charging fraud or false statements, and

"(B) involves the same transaction as in the criminal action, the person is estopped from denying the essential elements of the criminal offense.".

(b) Authority of Hearing Officer to Sanction Misconduct.—Such section is further amended by adding at the end the following new paragraph:

"(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

"(A) in the case of refusal to provide or permit discovery, drawing negative factual inferences or treating such refusal as an admission by deeming the matter, or certain facts, to be established,

"(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense,

"(C) striking pleadings, in whole or in part,

"(D) staying the proceedings,

"(E) dismissal of the action,

"(F) entering a default judgment,

"(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct, and

"(H) refusing to consider any motion or other action which is not filed in a timely manner.".

(c) CLARIFICATION OF EXCLUSION AUTHORITY FOR CERTAIN OFFENDERS.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended by adding at the end the following new subsection:

Physicians.
State and local governments.

"(f) For purposes of subsection (a), a physician or other individual is considered to have been 'convicted' of a criminal offense—

"(1) when a judgment of conviction has been entered against the physician or individual by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

"(2) when there has been a finding of guilt against the physician or individual by a Federal, State, or local court;

"(3) when a plea of guilty or nolo contendere by the physician or individual has been accepted by a Federal, State, or local court; or

"(4) when the physician or individual has entered into participation in a first offender or other program where judgment of conviction has been withheld.".

100 STAT. 2009

42 USC 1320a-7a note.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, without regard to when the criminal conviction was obtained, but shall only apply to a conviction upon a plea of nolo contendere tendered after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to failures or misconduct occurring on or after the date of the enactment of this Act.

42 USC 1320a-7 note.
Ante, p. 2008.

(3) The provisions—

(A) of paragraphs (1), (2), and (3) of section 1128(f) of the Social Security Act (as added by the amendment made by subsection (c)) shall apply to judgments entered, findings made, and pleas entered, before, on, or after the date of the enactment of this Act, and

(B) of paragraph (4) of such section shall apply to participation in a program entered into on or after the date of the enactment of this Act.

SEC. 9318. HOSPITAL PROTOCOLS FOR ORGAN PROCUREMENT AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.

(a) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1137 the following new section:

"HOSPITAL PROTOCOLS FOR ORGAN PROCUREMENT AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES

42 USC 1320b-8.
42 USC 1395, 1396.

"SEC. 1138. (a)(1) The Secretary shall provide that a hospital meeting the requirements of title XVIII or XIX may participate in the program established under such title only if—

"(A) the hospital establishes written protocols for the identification of potential organ donors that—

"(i) assure that families of potential organ donors are made aware of the option of organ or tissue donation and their option to decline,

"(ii) encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of such families, and

"(iii) require that an organ procurement agency designated by the Secretary pursuant to subsection (b)(1)(F) be notified of potential organ donors; and

"(B) In the case of a hospital in which organ transplants are performed, the hospital is a member of, and abides by the rules and requirements of, the Organ Procurement and Transplantation Network established pursuant to section 372 of the Public Health Service Act (in this section referred to as the 'Network'). 42 USC 274.

"(2) For purposes of this subsection, the term 'organ' means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.

"(b)(1) The Secretary shall provide that payment may be made under title XVIII or XIX with respect to organ procurement costs attributable to payments made to an organ procurement agency only if the agency—

"(A)(i) is a qualified organ procurement organization (as described in section 371(b) of the Public Health Service Act) that is operating under a grant made under section 371(a) of such Act, or (ii) has been certified or recertified by the Secretary within the previous two years as meeting the standards to be a qualified organ procurement organization (as so described); 42 USC 273.

100 STAT. 2010

"(B) meets the requirements that are applicable under such title for organ procurement agencies;

"(C) meets performance-related standards prescribed by the Secretary;

"(D) is a member of, and abides by the rules and requirements of, the Network;

"(E) allocates organs, within its service area and nationally, in accordance with medical criteria and the policies of the Network; and

"(F) is designated by the Secretary as an organ procurement organization payments to which may be treated as organ procurement costs for purposes of reimbursement under such title.

"(2) The Secretary may not designate more than one organ procurement organization for each service area (described in section 371(b)(1)(E) of the Public Health Service Act) under paragraph (1)(F).". 42 USC 273.

(b) Effective Dates.—(1) Section 1138(a) of the Social Security Act shall apply to hospitals participating in the programs under titles XVIII and XIX of such Act as of October 1, 1987. 42 USC 1320b-8 note. 42 USC 1395, 1396.

(2) Section 1138(b) of such Act shall apply to costs of organs procured on or after October 1, 1987.

SEC. 9319. MEDICARE AS SECONDARY PAYER; COVERAGE REQUIREMENTS FOR CERTAIN OTHER PAYERS.

(a) Medicare Secondary for Disabled Employees of Certain Large Employers.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following new paragraph:

"(4)(A)(i) A large group health plan may not take into account that an active individual is eligible for or receives benefits under this title under section 226(b), other than an individual who is, or would upon application be, entitled to benefits under section 226A. 42 USC 426. 42 USC 426-1.

"(ii) Payment may not be made under this title, except as provided in clause (iii), with respect to any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to the item or service as required under clause (i).

"(iii) Any payment under this title with respect to any item or service to which clause (i) applies shall be conditioned on reimbursement to the appropriate Trust Fund established by this title. In order to recover payment made under this title for the item or service, the United States may bring an action against any entity which is required under this subsection (a) to pay with respect to the item or service (and may, in accordance with paragraph (5), collect double damages against that entity), or against any other entity that has received payment from that entity with respect to the item or service, and may join or intervene in any action related to the events that gave rise to the need for the item or service. The United States shall be subrogated (to the extent of payment made under Claims.

this title for an item or service) to any right under clause (i) of an individual or any other entity to payment with respect to the item or service. The Secretary may waive (in whole or in part) the provisions of this clause in the case of an individual claim if the Secretary determines that the waiver is in the best interests of the program established under this title.

"(B) In this paragraph:

"(i) The term 'large group health plan' has the meaning given such term in section 5000(b) of the Internal Revenue Code of 1986.

Post, p. 2095.

"(ii) The term 'active individual' means an employee (as may be defined in regulations), the employer, an individual associated with the employer in a business relationship, or a member of the family of any of those persons.

"(C) The provisions of subparagraph (B) of paragraph (3) shall apply to coordination of payment under this paragraph in the case of large group health plans in the same manner as they apply to coordination of payment under paragraph (3) in the case of group health plans.

"(D) The preceding provisions of this paragraph shall only apply to items and services furnished on or after January 1, 1987, and before January 1, 1992.".

(b) ESTABLISHMENT OF PRIVATE CAUSE OF ACTION WHERE MEDICARE SECONDARY.—Such section is further amended by adding at the end the following new paragraph:

Insurance.

"(5) There is hereby created a private cause of action for damages (which shall be in an amount double the amount otherwise provided) in the case of a workmen's compensation law or plan, automobile or liability insurance policy or plan or no fault insurance plan, group health plan, or large group health plan which is made a primary payer under paragraph (1), (2), (3), or (4), respectively, and which fails to provide for primary payment (or appropriate reimbursement) in accordance with such respective paragraphs."

(c) SPECIAL ENROLLMENT PERIODS.—

(1) Section 1837(i)(1) of such Act (42 U.S.C. 1395p(i)(1)) is amended by adding at the end the following: "In the case of an individual who has not attained the age of 65, at the time the individual first satisfies paragraph (1) of section 1836, is enrolled in a large group health plan as an active individual (as those terms are defined in section 1862(b)(4)(B)), and has elected not to enroll (or to be deemed enrolled) under this section during the individual's initial enrollment period, there shall be a special enrollment period described in paragraph (3)(B).".

42 USC 1395o.

42 USC 1395y.

(2) Section 1837(i)(2) of such Act (42 U.S.C. 1395p(i)(2)) is amended by adding at the end the following: "In the case of an individual who has not attained the age of 65, has enrolled (or has been deemed to have enrolled) in the medical insurance program established under this part during the individual's initial enrollment period, or is an individual described in the second sentence of paragraph (1), has enrolled in such program during any subsequent special enrollment period under this subsection during which the individual was not enrolled in a large group health plan as an active individual (as those terms are defined in section 1862(b)(4)(B)), and has not terminated enrollment under this section at any time at which the individual is not enrolled in such a large group health plan as an active individual, there shall be a special enrollment period described in paragraph (3)(B).".

Ante, p. 171.

(3) Section 1837(i)(3) of such Act (42 U.S.C. 1395p(i)(3)) is amended—

(A) by inserting "(A)" after "(3)",

(B) by inserting "the first sentences of" after "referred to in",

(C) by adding at the end the following new subparagraph:

"(B) The special enrollment period referred to in the second sentences of paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled as an active individual in a large group health plan (as such terms are defined in section 1862(b)(4)(B)) and ending seven months later.". 42 USC 1395y.

(4) The second sentence of section 1839(b) of such Act (42 U.S.C. 1395r(b)) is amended by inserting before the period the following: "or months during which the individual has not attained the age of 65 and for which the individual can demonstrate that the individual was enrolled in a large group health plan as an active individual (as those terms are defined in section 1862(b)(4)(B))".

(d) TAX IMPOSED ON NONCONFORMING PLANS.—

(1) Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end the following new chapter: *Post*, p. 2095.

"CHAPTER 47—CERTAIN LARGE GROUP HEALTH PLANS

"Sec. 5000. Certain large group health plans.

"SEC. 5000. CERTAIN LARGE GROUP HEALTH PLANS.

26 USC 5000.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any employer or employee organization that contributes to a nonconforming large group health plan a tax equal to 25 percent of the employer's or employee organization's expenses incurred during the calendar year for each large group health plan to which the employer or employee organization contributes.

"(b) LARGE GROUP HEALTH PLAN.—For purposes of this section, the term 'large group health plan' means a plan of, or contributed to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.

"(c) NONCONFORMING LARGE GROUP HEALTH PLAN.—For purposes of this section, the term 'nonconforming large group health plan' means a large group health plan that at any time during a calendar year does not comply with the requirements of section 1862(b)(4)(A)(i) of the Social Security Act. 42 USC 1395y.

"(d) GOVERNMENT ENTITIES.—For purposes of this section, the term 'employer' does not include a Federal or other governmental entity.".

(2) The table of chapters of subtitle D of such Code is amended by adding at the end thereof the following:

"CHAPTER 47. Certain large group health plans.".

(e) STUDY OF IMPACT ON DISABLED BENEFICIARIES AND FAMILY.—The Comptroller General shall study and report to Congress, by not later than March 1, 1990, the impact of the amendments made by this section on access of disabled individuals and members of their family to employment and health insurance. The report shall include information relating to— Reports. 42 USC 1395y note.

(1) the number of disabled medicare beneficiaries for whom medicare has become secondary, either through their employment or the employment of a family member;

(2) the amount of savings to the medicare program achieved annually through this provision; and

(3) the effect on employment, and employment-based health coverage, of disabled individuals and family members.

(f) EFFECTIVE DATES.— 42 USC 1395y note.

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to items and services furnished on or after January 1, 1987.

(2) The amendments made by subsection (c) shall apply to enrollments occurring on or after January 1, 1987.

SEC. 9320. PAYMENT FOR SERVICES OF CERTIFIED REGISTERED NURSE ANESTHETISTS.

42 USC 1395ww note.

(a) Extension of Pass-Through for Costs of Certified Registered Nurse Anesthetists.—Section 2312(c) of the Deficit Reduction Act of 1984 is amended by striking "October 1, 1987." and inserting "January 1, 1989. In the case of a cost reporting period that begins before January 1, 1989, but end after such date, additional payments under the amendment made by subsection (a) shall be proportionately reduced to reflect the portion of the period occurring after such date.".

(b) Coverage of Services of a Certified Registered Nurse Anesthetist Under Part B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (11) through (14) as paragraphs (12) through (15), respectively;

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting "; and"; and

(4) by inserting after paragraph (10) the following new paragraph:

"(11) services of a certified registered nurse anesthetist (as defined in subsection (bb)).".

(c) Definition of Services of a Certified Registered Nurse Anesthetist.—Section 1861 of such Act is amended by inserting after subsection (aa) the following new subsection:

"SERVICES OF A CERTIFIED REGISTERED NURSE ANESTHETIST

"(bb)(1) The term 'services of a certified registered nurse anesthetist' means anesthesia services and related care furnished by a certified registered nurse anesthetist (as defined in paragraph (2)) which the nurse anesthetist is legally authorized to perform as such by the State in which the services are furnished.

"(2) The term 'certified registered nurse anesthetist' means a certified registered nurse anesthetist licensed by the State who meets such education, training, and other requirements relating to anesthesia services and related care as the Secretary may prescribe. In prescribing such requirements the Secretary may use the same requirements as those established by a national organization for the certification of nurse anesthetists.".

(d) Direct Payment for Services.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

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(1) by striking "and" at the end of clause (i),

(2) by striking "; and" at the end of clause (ii) and inserting ", and", and

(3) by adding at the end the following new clause:

"(iii) services of a certified registered nurse anesthetist; and".

(e) Amount of Payment.—(1) Section 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "and" at the end of subparagraph (E), and by adding at the end the following: "and (H) with respect to services of a certified registered nurse anesthetist under section 1861(s)(11), the amounts paid shall be 80 percent of the lesser of the actual charge or the fee schedule for such services established by the Secretary in accordance with subsection (l),".

Ante, p. 2013.

(2) Section 1833 of such Act is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall establish a fee schedule for services of certified registered nurse anesthetists under section 1861(s)(11).

Effective date.

"(2) Except as provided in paragraph (3), the fee schedule established under paragraph (1) shall be initially based on audited data from cost reporting periods ending in fiscal year 1985. The fee schedule shall be adjusted annually (to become effective on January 1 of each calendar year) by the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii)) for that year.

42 USC 1395u.

"(3)(A) In establishing the initial fee schedule for those services, the Secretary shall adjust the fee schedule to the extent necessary to ensure that the estimated total amount which will be paid under this title for those services plus applicable coinsurance in 1989 will equal the estimated total amount which would be paid under this title for those services in 1989 if the services were included as inpatient hospital services and payment for such services was made under part A in the same manner as payment was made in fiscal year 1987, adjusted to take into account changes in prices and technology relating to the administration of anesthesia.

Physicians.

"(B) The Secretary shall also reduce the prevailing charge of physicians for medical direction of a certified registered nurse anesthetist, or the fee schedule for services of certified registered nurse anesthetists, or both, to the extent necessary to ensure that the estimated total amount which will be paid under this title plus applicable coinsurance for such medical direction and such services in 1989 and 1990 will not exceed the estimated total amount which would have been paid but for the enactment of the amendments made by section 9320 of the Omnibus Budget Reconciliation Act of 1986. A reduced prevailing charge under this subparagraph shall become the prevailing charge but for subsequent years for purposes of applying the economic index under the fourth sentence of section 1842(b)(3).

"(4) In establishing the fee schedule under paragraph (1), the Secretary may utilize a system of time units, a system of base and time units, or any appropriate methodology. The Secretary may establish a nationwide fee schedule or adjust the fee schedule for geographic areas (as the Secretary may determine to be appropriate).

Claims.
Contracts.

"(5)(A) Payment for the services of a certified registered nurse anesthetist (for which payment may otherwise be made under this part) may be made on the basis of a claim or request for payment presented by the certified registered nurse anesthetist furnishing such services, or by a hospital, physician, or group practice with which the certified registered nurse anesthetist furnishing such services has an employment or contractual relationship that provides for payment to be made under this part for such services to such hospital, physician, or group practice.

"(B)(i) Payment for the services of a certified registered nurse anesthetist under this part may be made only on an assignment-related basis, and any such assignment agreed to by a certified registered nurse anesthetist shall be binding upon any other person presenting a claim or request for payment for such services.

"(ii) Except for deductible and coinsurance amounts applicable under this section, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services of a certified registered nurse anesthetist for which payment may be made under this part only on an assignment-related basis is subject to a civil monetary penalty of not to exceed $2,000 for each such bill or request. Such a penalty shall be imposed in the same manner as civil monetary penalties are imposed under section 1128A with respect to actions described in subsection (a) of that section.

Ante, pp. 2003, 2008.

Claims.

"(C) No hospital that presents a claim or request for payment for services of a certified nurse anesthetist under this part may treat any uncollected coinsurance amount imposed under this part with respect to such services as a bad debt of such hospital for purposes of this title.

Physicians.

"(6)(A) If an adjustment under paragraph (3)(B) results in a reduction in the reasonable charge for a physicians' service and a nonparticipating physician furnishes the service to an individual entitled to benefits under this part (subject to subparagraph (D)), the physician may not charge the individual more than the limiting charge (as defined in subparagraph (B)) plus (for services furnished during the 12-month period beginning on the effective date of the reduction) ½ of the amount by which the physician's actual charges for the service for the previous 12-month period exceeds the limiting charge.

"(B) In subparagraph (A), the term 'limiting charge' means, with respect to a service, 125 percent of the prevailing charge for the service after the reduction referred to in subparagraph (A).

Physicians.
Sanctions.

"(C) If a physician knowingly and willfully imposes charges in violation of subparagraph (A), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

Reports.

Ante, p. 190.

"(D) This paragraph shall not apply to services furnished after the earlier of (i) December 31, 1990, or (ii) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(3) Section 1842(j)(2) of such Act (42 U.S.C. 1395u(j)(2)) is amended by striking "paragraph (1) or subsection (k)" and inserting "this paragraph".

(f) Not Treated as Part of Inpatient Hospital Services.—Section 1861(b)(4) of such Act (42 U.S.C. 1395x(b)(4)) is amended by inserting before the semicolon the following: ", anesthesia services provided by a certified certified registered nurse anesthetist".

(g) Conforming Amendments to Hospital Payments.—(1) Section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is amended by striking ", costs of anesthesia services provided by a certified registered nurse anesthetist,".

(2) Section 1886(d)(5) of such Act (42 U.S.C. 1395ww(d)(5)) is amended by striking subparagraph (E).

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(h) Other Conforming Amendments.—(1) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by inserting before the period the following: "or are services of a certified registered nurse anesthetist".

(2) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended by inserting ", and other than services of a certified registered nurse anesthetist" after "1862(a)(14)".

(3) Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (11) and (12)" and inserting "paragraphs (12) and (13)".

42 USC 1395k note.

(i) Effective Date.—The amendments made by this section (other than subsection (a)) shall apply to services furnished on or after January 1, 1989

42 USC 1395k note.

(j) Construction.—Nothing in this section or the amendments made by this section shall contravene provisions of State law relating to the practice of medicine or nursing or State law requirements or institutional requirements regarding the administration of anesthesia and its medical direction or supervision.

SEC. 9321. TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS RELATING TO PARTS A AND B.

(a) Treatment of Group Purchasing Vendor Agreements.—

(1) In general.—Section 1877(b)(3) of the Social Security Act (42 U.S.C. 1395nn(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting "; and", and

(C) by adding at the end the following:

"(C) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under this title if—

Contracts.

"(i) the person has a written contract, with each such individual or entity which specifies the amount to be paid

the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such individual or entity under the contract, and

"(ii) in the case of an entity that is a provider of services, the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply to payments made before, on, or after the date of the enactment of this Act. 42 USC 1395nn note.

(b) EXTENSION AND CLARIFICATION OF COMPETITIVE CONTRACTING AUTHORITY.—Section 2326(a) of the Deficit Reduction Act of 1984 is amended— 42 USC 1395h note.

(1) by striking "of the fiscal years" and all that follows through ", the Secretary" and inserting "fiscal year (beginning with fiscal year 1985 and ending with fiscal year 1989), the Secretary", and

(2) by inserting "or cost reimbursement provisions under sections 1816(c) or 1842(c) of such Act" after "such Act" the second place it appears. *Ante*, pp. 1997, 1998.

(c) TREATMENT OF CAPITAL-RELATED REGULATIONS.— 42 USC 1395ww note.

100 STAT. 2017

(1) PROHIBITION OF ISSUANCE OF FINAL REGULATIONS ON CAPITAL-RELATED COSTS AS PART OF PAYMENT FOR OPERATING COSTS BEFORE SEPTEMBER 1, 1987.—Notwithstanding any other provision of law (except as provided in paragraph (3)), the Secretary of Health and Human Services may not issue, in final form, after September 1, 1986, and before September 1, 1987, any regulation that changes the methodology for computing the amount of payment for capital-related costs (as defined in paragraph (4)) for inpatient hospital services under part A of title XVIII of the Social Security Act. Any regulation published in violation of the previous sentence before the date of the enactment of this Act is void and of no effect. 42 USC 1395c.

(2) NOT INCLUDING CAPITAL-RELATED REGULATIONS IN BUDGET BASELINE.—Any reference in law to a regulation issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act shall not include any regulation issued or proposed with respect to capital-related costs (as defined in paragraph (4)). 42 USC 1395ww.

(3) EXCEPTION.—Paragraph (1) shall not apply to any regulation issued for the sole purpose of implementing section 1886(g)(3)(A) and (B) of the Social Security Act (as amended by section 9303(a) of this Act).

(4) CAPITAL-RELATED COSTS DEFINED.—In this subsection, the term "capital-related costs" means those capital-related costs that are specifically excluded, under the second sentence of "operating costs of inpatient hospital services" (as defined in that section) for cost reporting periods beginning prior to October 1, 1987.

(d) LIMITATION ON AUTHORITY TO ISSUE CERTAIN FINAL REGULATIONS AND INSTRUCTIONS RELATING TO HOSPITALS OR PHYSICIANS.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute and except as provided under subsection (c) with respect to a regulation described in that subsection, the Secretary of Health and Human Services is not authorized to issue in final form after the date of the enactment of this Act and before September 1, 1987, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1988 of more than $50,000,000, and which relates to hospitals or physicians. 42 USC 1395ww note. 42 USC 1395.

(e) 60-DAY NOTICE FOR PROPOSED REGULATIONS.—

(1) IN GENERAL.—Section 1871 of the Social Security Act (42

U.S.C. 1395hh) is amended by inserting "(a)" after "1871." and by adding at the end the following new subsection:

Federal Register, publication.

"(b)(1) Except as provided in paragraph (2), before issuing in final form any regulation under subsection (a), the Secretary shall provide for notice of the proposed regulation in the Federal Register and a period of not less than 60 days for public comment thereon.

"(2) Paragraph (1) shall not apply where—

"(A) a statute specifically permits a regulation to be issued in interim final form or otherwise with a shorter period for public comment,

"(B) a statute establishes a specific deadline for the implementation of a provision and the deadline is less than 150 days after the date of the enactment of the statute in which the deadline is contained, or

"(C) subsection (b) of section 553 of title 5, United States Code, does not apply pursuant to subparagraph (B) of such subsection.".

(2) CONFORMING AMENDMENTS.—(A) Section 1886(e)(3)(A) of such Act (42 U.S.C. 1395ww(e)(3)(A)), as amended by section 9302(e)(3)(B), is amended by striking "April" and inserting "March".

(B) Section 1886(e)(5)(A) of such Act is amended by striking "June"and inserting "May".

(3) EFFECTIVE DATES.—

42 USC 1395hh note.

(A) The amendments made by paragraph (1) shall apply to notices of proposed rulemaking issued after the date of the enactment of this Act.

42 USC 1395ww note.

(B) The amendments made by paragraph (2) shall take effect beginning with fiscal year 1989.

PART 3—PROVISIONS RELATING TO MEDICARE PART B

SEC. 9331. PAYMENT FOR PHYSICIANS' SERVICES.

(a) DETERMINATION OF MAXIMUM ALLOWABLE PREVAILING CHARGES FOR PHYSICIANS' SERVICES.—

(1) IN GENERAL.—Section 1842(b)(4)(A) of the Social Security Act (42 U.S.C. 1395u(b)(4)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) In determining the maximum allowable prevailing charges which may be recognized consistent with the index described in the fourth sentence of paragraph (3) for physicians' services furnished on or after January 1, 1987, by participating physicians, the Secretary shall treat the maximum allowable prevailing charges recognized as of December 31, 1986, under such sentence with respect to participating physicians as having been justified by economic changes.

"(iv) In determining the prevailing charge level under the third and fourth sentences of paragraph (3) for a physicians' service furnished on or after January 1, 1987, by a nonparticipating physician, the Secretary shall set the level at 96 percent of the prevailing charge levels established under such sentences with respect to such service furnished by participating physicians.

"(v) Beginning with 1987, the percentage increase in the MEI (as defined in subparagraph (E)(ii)) for each year shall be the same for nonparticipating physicians as for participating physicians.".

(2) CONFORMING AMENDMENT.—Section 1842(b)(4)(C) of such Act is amended—

(A) by striking "(i)" after "(C)", and

(B) by striking clause (ii).

(3) DEFINITIONS.—Section 1842(b)(4) of such Act is further amended by adding at the end the following new subparagraph:

"(E) In this section:

"(i) The term 'participating physician' refers, with respect to the furnishing of services, to a physician who at the time of furnishing the services is a participating physician (under subsection (h)(1)), and the term 'nonparticipating physician' refers, with respect to the furnishing of services, a physician who at the time of furnishing the services is not a participating physician.

"(ii) The term 'percentage increase in the MEI' means, with respect to physicians' services furnished in a year, the percentage increase in the medicare economic index (referred to in the fourth sentence of paragraph (3)) applicable to such services furnished as of the first day of that year.".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 1987. 42 USC 1395u note.

(b) GENERAL LIMIT ON ACTUAL CHARGES FOR NONPARTICIPATING PHYSICIANS.— 42 USC 1395u.

(1) IN GENERAL.—Section 1842(j)(1) of such Act is amended—

(A) by inserting "(A)" after "(j)(1)", and

(B) by adding at the end the following new subparagraph:

"(B)(i) During any period (on or after January 1, 1987, and before the date specified in clause (ii)), during which a physician is a nonparticipating physician, the Secretary shall monitor each such physician's actual charges for physicians' services furnished to individuals enrolled under this part. If such physician knowingly and willfully bills for such a service a physician's actual charge (as defined in subparagraph (C)(vi) in excess of the maximum allowable actual charge determined under subparagraph (C) for that service, the Secretary may apply sanctions against such physician in accordance with paragraph (2). Sanctions.

"(ii) Clause (i) shall not apply to services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845. *Ante*, p. 190.

"(C)(i) For a particular physicians' service furnished by a nonparticipating physician to individuals enrolled under this part during a year, for purposes of subparagraph (B), the maximum allowable actual charge is determined as follows: If the physician's actual charge for that service in the previous year was—

"(I) less than 115 percent of the prevailing charge for the year involved for such service furnished by nonparticipating physicians, the maximum allowable actual charge for the year involved is the greater of the maximum allowable actual charge described in subclause (II) or the charge described in clause (ii), or

"(II) equal to, or greater than, 115 percent of the prevailing charge for the year involved for such service furnished by nonparticipating physicians, the maximum allowable actual charge is 101 percent of the physician's maximum allowable actual charge for the service for the previous year.

"(ii) For purposes of clause (i)(I), the charge described in this clause for a particular physicians' service furnished in a year is the maximum allowable actual charge for the service of the physician for the previous year plus the product of (I) the applicable fraction (as defined in clause (iii)) and (II) the amount by which 115 percent of the prevailing charge for the year involved for such service furnished by nonparticipating physicians, exceeds the physician's maximum allowable actual charge for the service for the previous year.

"(iii) In clause (ii), the 'applicable fraction' is—

"(I) for 1987, ¼,

"(II) for 1988, ⅓,

"(III) for 1989, ½, and

"(IV) for any subsequent year, 1.

100 STAT. 2020 "(iv) For purposes of determining the maximum allowable actual charge under clauses (i) and (ii) for 1987, in the case of a physicians' service for which the physician has actual charges for the calendar quarter beginning on April 1, 1984, the 'maximum allowable actual charge' for 1986 is the physician's actual charge for such service furnished during such quarter.

"(v) For purposes of determining the maximum allowable actual charge under clauses (i) and (ii) for a year after 1987, in the case of a physicians' service for which the physician has no actual charges for the calendar quarter beginning on April 1, 1984, and for which a maximum allowable actual charge has not been previously established under this clause, the 'maximum allowable actual charge' for the previous year shall be the 50th percentile of the customary charges for the service (weighted by frequency of the service) performed by nonparticipating physicians in the locality during the 12-month period ending June 30 of that previous year.

"(vi) For purposes of this subparagraph and subparagraph (B), a 'physician's actual charge' for a physicians' service furnished in a year or other period is the weighted average (or, at the option of the Secretary for a service furnished in the calendar quarter beginning April 1, 1984, the median) of the physician's charges for such service furnished in the year or other period.".

42 USC 1395u. (2) PROVISION OF ACTUAL CHARGE INFORMATION BY CARRIER TO NONPARTICIPATING PHYSICIANS.—Section 1842(b)(3) of such Act is amended—

(A) by striking "and" at the end of subparagraph (E),

(B) by inserting "and" at the end of subparagraph (F), and

(C) by inserting after subparagraph (F) the following new subparagraph:

"(G) will provide to each nonparticipating physician, at the beginning of each year, a list of the physician's maximum allowable actual charges (established under subsection (j)(1)(C)) for the year for the physicians' services mostly commonly furnished by that physician;".

(3) CONFORMING AMENDMENT.—Section 1842(b)(4)(D) of such Act is amended by adding at the end the following new clause:

"(iv) In determining the customary charges for a physicians' service furnished on or after January 1, 1988, if a physician was a nonparticipating physician in a previous year (beginning with 1987), the Secretary shall not recognize any amount of such actual charges (for that service furnished during such previous year) that exceeds the maximum allowable actual charge for such service established under subsection (j)(1)(C).".

42 USC 1395u note. (4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 1987.

42 USC 1395u note. (c) MEDICARE ECONOMIC INDEX.—

42 USC 1395j. (1) FOR 1987.—Notwithstanding any other provision of law, for purposes of part B of title XVIII of the Social Security Act for physicians' services furnished in 1987, the percentage increase in the MEI (as defined in section 1842(b)(4)(E)(ii) of the Social Security Act) shall be 3.2 percent.

(2) PROHIBITING RETROACTIVE ADJUSTMENT OF MEDICARE ECONOMIC INDEX.—The Secretary of Health and Human Services is not authorized to revise the MEI in a manner that provides, for 100 STAT. 2021 any period before January 1, 1985, for the substitution of a rental equivalence or rental substitution factor for the housing component of the consumer price index.

(3) ANNUALIZATION OF MEI.—(A) The fourth sentence of section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting after "ending June 30, 1973," the following: "or (with respect to physicians services furnished in a year after 1987) the level determined under this sentence for the previous year", and inserting "year-to-year" before "economic changes".

(B) The amendments made by subparagraph (A) shall apply to physicians' services furnished on or after January 1, 1988.

42 USC 1395u note.

(4) STUDY.—The Secretary shall conduct a study of the extent to which the MEI appropriately and equitably reflects economic changes in the provision of the physicians' services to medicare beneficiaries. In conducting such study the Secretary shall consult with appropriate experts.

42 USC 1395u note.

(5) LIMITATION ON CHANGES IN MEI METHODOLOGY.—The Secretary shall not change the methodology (including the basis and elements) used in the MEI from that in effect as of October 1, 1985, until completion of the study under paragraph (4). After the completion of the study, the Secretary may not change such methodology except after providing notice in the Federal Register and opportunity for public comment.

Public information.
42 USC 1395u note.

(6) MEI DEFINED.—In this subsection, the term "MEI" means the economic index referred to in the fourth sentence of section 1842(b)(3) of the Social Security Act.

42 USC 1395u note.

(d) DEVELOPMENT AND USE OF HCFA COMMON PROCEDURE CODING SYSTEM.—

42 USC 1395u note.

(1) Not later than July 1, 1989, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary"), after public notice and opportunity for public comment and after consulation with appropriate medical and other experts, shall group the procedure codes contained in any HCFA Common Procedure Coding System for payment purposes to minimize inappropriate increases in the intensity or volume of services provided as a result of coding distinctions which do not reflect substantial differences in the services rendered.

Public information.

(2) Not later than January 1, 1990, each carrier with which the Secretary has entered into a contract under section 1842 of the Social Security Act shall make payments under part B of title XVIII of such Act based on the grouping of procedure codes effected under paragraph (1).

Contracts.
42 USC 1395u.
42 USC 1395j.

(e) RECOMMENDATIONS.—

(1) Section 1845(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

Ante, p. 192.

"(4)(A) In making recommendations with respect to the application of the relative value scale for purposes of establishing a fee schedule, the Secretary shall—

"(i) develop and assess an appropriate index to be used for making adjustments to reflect justifiable differences in the costs of practice based upon geographic location without exacerbating the geographic maldistribution of physicians, and

"(ii) assess the advisability and feasibility of developing an appropriate adjustment to assist in attracting and retaining physicians in medically underserved areas.

100 STAT. 2022

"(B) In carrying out the requirements of subparagraph (A), the Secretary shall take into consideration the recommendations made by the Physician Payment Review Commission.

"(C)(i) The Secretary shall develop an interim index under subparagraph (A)(i) prior to January 1, 1988, based upon the most accurate and recent data that are available with respect to the costs of practice.

"(ii) The Secretary shall collect data with respect to the costs of practice (including, but not limited to, data on nonphysician personnel costs, malpractice insurance costs, and commercial rents) for the purpose of refining the index under subparagraph (A)(i) prior to December 31, 1989, and periodically updating the index thereafter.

"(D) In conjunction with developing an index under subparagraph (A), the Secretary shall conduct a study of the advisability of redefining the localities designated by carriers for payment purposes.".

42 USC 1395w-1.

(2) Section 1845(b)(3) of such Act is amended by inserting "and respecting the index and the adjustment described in subsection (e)(4)(A)" after "subsection (e)".

(3) Section 1845(e)(3) of such Act is amended—

(A) by striking "July 1, 1987" and inserting in lieu thereof "July 1, 1989", and

(B) by striking "on or after January 1, 1988" and inserting in lieu thereof "after December 31, 1989".

SEC. 9332. INCENTIVES FOR PHYSICIAN PARTICIPATION.

(a) RECRUITING.—

(1) CARRIER RESPONSIBILITY.—Section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)), as amended by section 9331(b)(2), is further amended—

(A) by striking "and" at the end of subparagraph (F),

(B) by inserting "and" at the end of subparagraph (G), and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) if it makes determinations or payments with respect to physicians' services, will implement—

"(i) programs to recruit and retain physicians as participating physicians in the area served by the carrier, including educational and outreach activities and the use of professional relations personnel to handle billing and other problems relating to payment of claims of participating physicians; and

"(ii) programs to familiarize beneficiaries with the participating physician program and to assist such beneficiaries in locating participating physicians;".

Contracts.
42 USC 1395u note.

(2) MEASURING CARRIER PERFORMANCE.—The Secretary of Health and Human Services shall provide, in the standards and criteria established under section 1842(b)(2) of the Social Security Act for contracts under that section, a system to measure a carrier's performance of the responsibilities described in sections 1842(b)(3)(H) and 1842(h) of such Act.

42 USC 1395u note.
42 USC 1395j.
100 STAT. 2023

(3) CARRIER BONUSES FOR GOOD PERFORMANCE.—Of the amounts appropriated for administrative activities to carry out part B of title XVIII of the Social Security Act, the Secretary of Health and Human Services shall provide payments, totaling 1 percent of the total payments to carriers for claims processing in any fiscal year, to carriers under section 1842 of such Act, to reward such carriers for their success in increasing the proportion of physicians in the carrier's service area who are participating physicians.

42 USC 1395u note.
Contracts.

(4) EFFECTIVE DATES.—

(A) CARRIER RESPONSIBILITY.—The amendment made by paragraph (1) shall be effective for contracts under section 1842 of the Social Security Act as of October 1, 1987.

(B) PERFORMANCE MEASURES.—The Secretary of Health and Human Services shall provide for the establishment of the standards and criteria required under paragraph (2) by not later than October 1, 1987, which shall apply to contracts as of October 1, 1987.

(C) CARRIER BONUSES.—From the amounts appropriated for each fiscal year (beginning with fiscal year 1988), the Secretary of Health and Human Services shall first provide for payments of bonuses to carriers under paragraph (3) not later than April 1, 1988, to reflect performance of carriers during the enrollment period at the end of 1987.

(b) DIRECTORIES OF PARTICIPATING PHYSICIANS.—

(1) REQUIRING DISTRIBUTION TO MEDICARE BENEFICIARIES, UPON REQUEST.—Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended—

(A) in paragraph (2), by striking period and inserting the following: "and may request a copy of an appropriate directory published under paragraph (4). Each such carrier shall, without charge, mail a copy of such directory upon such a request.";

(B) in paragraph (5)—

(i) by striking "publication of the directories" and inserting "the participation program under this subsection and the publication and availability of the directories", and

(ii) by adding at the end the following: "The Secretary shall include such notice in the mailing of appropriate benefit checks provided under title II."; and

(C) in the second sentence of paragraph (6)—

Hospitals.

(i) by inserting before the period the following: "and that an appropriate number of copies of each such directory is sent to hospitals located in the area", and

(ii) by adding at the end the following: "Such copies shall be sent free of charge.".

(2) ORGANIZATION OF DIRECTORIES.—Section 1842(h)(4) of such Act is amended by adding at the end the following: "Each participating physician directory for an area shall provide an alphabetical listing of all participating physicians practicing in the area and an alphabetical listing by locality and specialty of such physicians.".

42 USC 1395u note.

(3) EFFECTIVE DATES.—The amendments made by this paragraph shall first apply to directories for 1987.

(c) PROHIBITING UNASSIGNED BILLING OF SERVICES DETERMINED TO BE MEDICALLY UNNECESSARY BY A CARRIER.—

(1) IN GENERAL.—Section 1842 of the Social Security Act is further amended by adding at the end the following new subsection:

"(l)(1)(A) Subject to subparagraph (C), if—

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"(i) a nonparticipating physician furnishes services to an individual enrolled for benefits under this part,

"(ii) payment for such services is not accepted on an assignment-related basis,

42 USC 1320c.
42 USC 1395y.

"(iii) a carrier determines under this part or a peer review organization determines under part B of title XI that payment may not be made by reason of section 1862(a)(1) because a service otherwise covered under this title is not reasonable and necessary under the standards described in that section, and

"(iv) the physician has collected any amounts for such services,

the physician shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts so collected.

"(B) A refund under subparagraph (A) is considered to be on a timely basis only if—

"(i) in the case of a physician who does not request reconsideration or seek appeal on a timely basis, the refund is made within 30 days after the date the physician receives a denial notice under paragraph (2), or

"(ii) in the case in which such a reconsideration or appeal is taken, the refund is made within 15 days after the date the physician receives notice of an adverse determination on reconsideration or appeal.

"(C) Subparagraph (A) shall not apply to the furnishing of a service by a physician to an individual if—

"(i) the physician did not know and could not reasonably have been expected to know that payment may not be made for the service by reason of section 1862(a)(1), or

"(ii) before the service was provided, the individual was informed that payment under this part may not be made for the specific service and the individual has agreed to pay for that service.

Contracts.

"(2) Each carrier with a contract in effect under this section with respect to physicians and each peer review organization with a contract under part B of title XI shall send any notice of denial of payment for physicians' services based on section 1862(a)(1) and for which payment is not requested on an assignment-related basis to the physician and the individual involved.

Sanctions.

"(3) If a physician knowingly and willfully fails to make refunds in violation of paragraph (1)(A), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).".

42 USC 1395u note.

(2) Effective date.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 1987.

42 USC 1395u.

(d) Disclosure of Information of Unassigned Claims for Certain Physicians' Services.—

(1) In general.—Section 1842 of the Social Security Act, as amended by subsection (c)(1), is further amended by adding at the end the following new subsection:

"(m)(1) In the case of a nonparticipating physician who—

"(A) performs an elective surgical procedure for an individual enrolled for benefits under this part and for which the physician's actual charge is at least $500, and

"(B) does not accept payment for such procedure on an assignment-related basis,

the physician must disclose to the individual, in writing and in a form approved by the Secretary, the physician's estimated actual charge for the procedure, the estimated approved charge under this part for the procedure, the excess of the physician's actual charge over the approved charge, and the coinsurance amount applicable to the procedure. The written estimate may not be used as the basis for, or evidence in, a civil suit.

100 STAT. 2025

"(2) A physician who fails to make a disclosure required under paragraph (1) with respect to a procedure shall refund on a timely basis to the individual (and shall be liable to the individual for) any amounts collected for the procedure in excess of the charges recognized and approved under this part.

Sanctions.

"(3) If a physician knowingly and willfully fails to comply with paragraph (2), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(4) The Secretary shall provide for such monitoring of requests for payment for physicians' services to which paragraph (1) applies as is necessary to assure compliance with paragraph (2).".

42 USC 1395u note.

(2) Effective date.—The amendment made by paragraph (1) shall apply to surgical procedures performed on or after October 1, 1987.

42 USC 1395cc.

(e) Maintenance and Use of Participating Physician Directories by Hospitals.—

Ante, p. 1989.

(1) Requirement of participation.—Section 1866(a)(1) of the Social Security Act, as amended by section 9305(b)(1), is further amended—

(A) by striking "and" at the end of subparagraph (L),

(B) by striking the period at the end of subparagraph (M) and inserting ", and", and

(C) by inserting after subparagraph (M) the following new subparagraph:

"(N) in the case of hospitals—

"(i) to make available to its patients the directory or directories of participating physicians (published under section 1842(h)(4)) for the area served by the hospital, and

"(ii) if hospital personnel (including staff of any emergency or outpatient department) refer a patient to a nonparticipating physician for further medical care on an outpatient basis, the personnel must inform the patient that the physician is a nonparticipating physician and, whenever practicable, must identify at least one qualified participating physician who is listed in such a directory and from whom the patient may receive the necessary services.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to agreements under section 1866(a) of the Social Security Act as of October 1, 1987.

42 USC 1395cc note.

SEC. 9333. LIMITS ON REASONABLE CHARGES.

(a) PROCEDURES FOR ESTABLISHMENT OF SPECIAL LIMITS ON REASONABLE CHARGES FOR PART B SERVICES.—Section 1842(b)(8) of the Social Security Act (42 U.S.C. 1395u(b)(8)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(8)"; and

(3) by adding at the end the following new subparagraphs:

Physicians.

"(B)(i) The Secretary may provide for an increase or decrease in the reasonable charge otherwise recognized under this section with respect to a specific physicians' service only in accordance with the criteria set forth in subparagraph (A) and with the succeeding provisions of this paragraph.

100 STAT. 2026

"(ii) The factors described pursuant to subparagraph (A)(i) with respect to payment for physicians' services shall include, but need not be limited to, the following:

"(I) Prevailing charges for a service in a particular locality are significantly in excess of or below prevailing charges in other comparable localities, taking into account the relative costs of furnishing the services in the different localities.

"(II) The programs established under this title and title XIX are the sole or primary sources of payment for a service.

42 USC 1396.

"(III) The marketplace for a service is not truly competitive because of a limited number of physicians who perform that service.

"(IV) There have been increases in charges for a service that cannot be explained by inflation or technology.

"(V) The charges do not reflect changing technology, increased facility with that technology, or reductions in acquisition or production costs.

"(VI) The prevailing charges for a service under this part are substantially higher or lower than the payments made for the service by other purchasers in the same locality.

"(iii) In applying subparagraph (A), the Secretary may compare—

"(I) the charges and resource costs for related procedures,

"(II) charges and resource costs for the procedure over a period of time,

"(III) charges for a procedure in different geographic areas, and

"(IV) the charges and allowed payments for a procedure under this part and by other payors.

"(iv) The factors considered under subparagraph (A)(ii) shall take into account regional differences in fees, unless there is substantial economic justification for a uniform fee or a uniform payment limit. Such substantial economic justification must be explained by the Secretary in the notice and final determination required by paragraph (9).

"(v) An adjustment under clause (i) on the basis of a comparison of the prevailing charges in different localities may be made only if the Secretary determines that the prevailing charge allowed in one locality is out of line with prevailing charges allowed in other localities after accounting for differences in practice costs.

"(vi) In this subparagraph, 'resource costs' include factors such as the time required to provide a procedure (including pre-procedure evaluation and post-procedure follow-up), the complexity of the procedure, the training required to perform the procedure, and the risk involved in the procedure.

Claims.

"(C) In determining whether to adjust payment rates under subparagraph (B)(i), the Secretary shall consider the potential impacts on quality, access, and beneficiary liability of the adjustment, including the likely effects on assignment rates, reasonable charge reductions on unassigned claims, and participation rates of physicians.".

Post, p. 2055.

(b) Inherent Reasonableness Procedures.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)) is amended by redesignating paragraph (9) as paragraph (11) and inserting after paragraph (8) the following new paragraphs:

100 STAT. 2027

Physicians.

"(9)(A) In the case of any physicians' service with respect to which the Secretary—

"(i) determines, after appropriate consultation with representatives of the physicians likely to be affected by any change in the reasonable charge, that the application of this subsection results in the determination of a reasonable charge that, by reason of its grossly excessive or grossly deficient amount, is not inherently reasonable, and

Federal Register, publication.

"(ii) proposes to establish a reasonable charge that is realistic and equitable or a methodology for arriving at such a charge,

the Secretary shall publish notice of such proposal in the Federal Register.

"(B) A notice required by subparagraph (A) shall—

"(i) specify the charge or methodology proposed to be established with respect to a service and shall explain the factors and data that the Secretary took into account in determining the charge or methodology so specified, and

"(ii) explain the potential impacts described in paragraph (8)(C).

"(C) After publication of the notice required by subparagraph (A), the Secretary shall allow not less than 60 days for public comment on the proposal.

Ante, p. 190.

"(D) In addition to carrying out its functions under section 1845, the Physician Payment Review Commission (in this paragraph referred to as the 'Commission') shall comment on any such proposal within the period of comment allowed by the Secretary pursuant to subparagraph (C).

Federal Register, publication.

"(E)(i) Taking into consideration the comments made by the Commission and the public, the Secretary shall publish in the Federal Register a final determination with respect to the reasonable charge or methodology to be established with respect to the service.

"(ii) A final determination published pursuant to clause (i) shall explain the factors and data that the Secretary took into consideration in making the final determination, and shall include and respond to the comments made by the Commission pursuant to subparagraph (D).

Physicians.

"(10)(A)(i) If an adjustment under paragraph (8)(B) results in a reduction in the reasonable charge for a physicians' service, and a nonparticipating physician furnishes the service to an individual entitled to benefits under this part after the effective date of such reduction and before the end of the period described in subparagraph (C), the physician may not charge the individual more than the limiting charge (as defined in clause (ii)) plus (for services furnished during the 12-month period beginning on the effective date of the reduction) ½ of the amount by which the physician's actual charge for the service for the previous 12-month period exceeds the limiting charge.

"(ii) In clause (i), the term 'limiting charge' means, with respect to a service, 125 percent of the inherently reasonable charge established under paragraph (8).

Sanctions.

"(B) If a physician knowingly and willfully imposes charges in violation of subparagraph (A), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

Reports.

"(C) Subparagraph (A) shall not apply to services furnished after the earlier of (i) December 31, 1990, or (ii) one-year after the date the

Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

Ante, p. 192.

100 STAT. 2028

(c) Review of Procedures.—Not later than October 1, 1987, the Secretary of Health and Human Services shall review the inherent reasonableness of the reasonable charges for at least 10 of the most costly procedures with respect to which payment is made under part B of title XVIII of the Social Security Act (determined on the basis of the aggregate annual payments under such part with respect to each such procedure).

42 USC 1395u note.

42 USC 1395j.

(d) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

42 USC 1395u note.

SEC. 9334. PAYMENT FOR CATARACT SURGICAL PROCEDURES.

(a) Limitations.—Section 1842(b)(11) of the Social Security Act (42 U.S.C. 1395u(b)(11)), as redesignated by section 9333(b), is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(2) by inserting "(A)" after "(11)", and

(3) by adding at the end the following new subparagraphs:

"(B)(i) In determining the reasonable charge under paragraph (3) for a cataract surgical procedure, subject to clause (ii), the prevailing charge for such procedure otherwise recognized for participating and nonparticipating physicians shall be reduced by 10 percent with respect to procedures performed in 1987 and shall be further reduced by 2 percent with respect to procedures performed in 1988. A reduced prevailing charge under this subparagraph shall become the prevailing charge level for subsequent years for purposes of applying the economic index under the fourth sentence of paragraph (3).

"(ii) In no case shall the reduction under clause (i) for a surgical procedure result in a prevailing charge in a locality for a year which is less than 75 percent of the weighted national average of such prevailing charges for such procedure for all the localities in the United States for 1986.

"(C)(i) In the case of a reduction in the reasonable charge for a physicians' service under subparagraph (B), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part after the effective date of such reduction (subject to clause (iv)), the physician may not charge the individual more than the limiting charge (as defined in clause (ii)) plus (for services furnished during the 12-month period beginning on the effective date of the reduction) ½ of the amount by which the physician's actual charges for the service for the previous 12-month period exceeds the limiting charge.

"(ii) In clause (i), the term 'limiting charge' means, with respect to a service, 125 percent of the prevailing charge for the service after the reduction referred to in clause (i).

"(iii) If a physician knowingly and willfully imposes charges in violation of clause (i), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

Sanctions.

"(iv) This subparagraph shall not apply to services furnished after the earlier of (I) December 31, 1990, or (II) one-year after the date the Secretary reports to Congress, under section 1845(e)(3), on the development of the relative value scale under section 1845.".

(b) Ratification of Regulations.—

(1) In general.—The Congress hereby ratifies the final regulation of the Secretary of Health and Human Services published on page 35693 of volume 51 of the Federal Register on October 7, 1986, relating to reasonable charge payment limits for anesthesia services under the medicare program.

42 USC 1395u note.

100 STAT. 2029

(2) Patient protections.—In the case of any reduction in the reasonable charge for physicians' services effected under the regulation described in paragraph (1), the provisions of section 1842(b)(10) of the Social Security Act (added by the amendment made by subsection (a)(3)) shall apply in the same manner and

Physicians.

42 USC 1395u.

to the same extent as they apply to a reduction in the reasonable charge for a physicians' service effected under section 1842(b)(8) of such Act.

42 USC 1395u note.

(c) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1987.

SEC. 9335. PAYMENT RATES FOR RENAL SERVICES AND IMPROVEMENTS IN ADMINISTRATION OF END STAGE RENAL DISEASE NETWORKS AND PROGRAM.

42 USC 1395rr note.

(a) Composite Rates for Dialysis Services.—

(1) In general.—Effective with respect to dialysis services provided on or after October 1, 1986, and before October 1, 1988, the Secretary of Health and Human Services shall establish the base rate for routine dialysis treatment in a free-standing facility and in a hospital-based facility under section 1881(b)(7) of the Social Security Act at a level equal to the respective rate in effect as of May 13, 1986, reduced by $2.00.

42 USC 1395rr.

(2) Assuring prompt consideration of exception requests.—Section 1881(b)(7) of the Social Security Act (42 U.S.C. 1395rr(b)(7)) is amended—

(A) in the third sentence, by inserting "and of pediatric facilities" after "isolated, rural areas", and

(B) by inserting after the third sentence the following new sentence: "Each application for such an exception shall be deemed to be approved unless the Secretary disapproves it by not later than 60 working days after the date the application is filed.".

42 USC 1395rr note.

(3) Effective date.—The amendments made by paragraph (2) shall apply to applications filed on or after the date of the enactment of this Act.

42 USC 1395rr note.

(b) Report on Payment Rates.—

(1) In general.—The Secretary of Health and Human Services shall provide for—

Physicians.

(A) a study to evaluate the effects of reductions in the rates of payment for facility and physicians' services under the medicare program for patients with end stage renal disease on their access to care or on the quality of care, and

Reports.

(B) a report to Congress on the results of the study by not later than January 1, 1988.

(2) Arrangements with Institute of Medicine.—The Secretary shall request the National Academy of Sciences, acting through appropriate units, to submit an application to conduct the study described in paragraph (1). If the Academy submits an acceptable application, the Secretary shall enter into an appropriate arrangement with the Academy for the conduct of the study. If the Academy does not submit an acceptable application to conduct the study, the Secretary may request one or more appropriate nonprofit private entities to submit an application to conduct the study and may enter into an appropriate arrangement for the conduct of the study by the entity which submits the best acceptable application.

100 STAT. 2030

(c) Coverage of Immunosuppressive Drugs.—

(1) In general.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (H)(ii),

(B) by inserting "and" at the end of subparagraph (I), and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) immunosuppressive drugs furnished, to an individual who receives an organ transplant for which payment is made under this title, within 1 year after the date of the transplant procedure;".

42 USC 1395x note.

(2) Effective date.—The amendments made by paragraph (1) shall apply to immunosuppressive drugs furnished on or after January 1, 1987.

(d) REORGANIZATION OF ESRD NETWORK AREAS AND ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (A) of subsection (c)(1) of section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended to read as follows:

"(A)(i) For the purpose of assuring effective and efficient administration of the benefits provided under this section, the Secretary shall, in accordance with such criteria as he finds necessary to assure the performance of the responsibilities and functions specified in paragraph (2)—

"(I) establish at least 17 end stage renal disease network areas, and

"(II) for each such area, designate a network administrative organization which, in accordance with regulations of the Secretary, shall establish (aa) a network council of renal dialysis and transplant facilities located in the area and (bb) a medical review board, which has a membership including at least one patient representative and physicians, nurses, and social workers engaged in treatment relating to end stage renal disease. Physicians. Nurses.

The Secretary shall publish in the Federal Register a description of the geographic area that he determines, after consultation with appropriate professional and patient organizations, constitutes each network area and the criteria on the basis of which such determination is made. Federal Register, publication.

"(ii)(I) In order to determine whether the Secretary should enter into, continue, or terminate an agreement with a network administrative organization designated for an area established under clause (i), the Secretary shall develop and publish in the Federal Register standards, criteria, and procedures to evaluate an applicant organization's capabilities to perform (and, in the case of an organization with which such an agreement is in effect, actual performance of) the responsibilities described in paragraph (2). The Secretary shall evaluate each applicant based on quality and scope of services and may not accord more than 20 percent of the weight of the evaluation to the element of price. Federal Register, publication.

"(II) An agreement with a network administrative organization may be terminated by the Secretary only if he finds, after applying such standards and criteria, that the organization has failed to perform its prescribed responsibilities effectively and efficiently. If such an agreement is to be terminated, the Secretary shall select a successor to the agreement on the basis of competitive bidding and in a manner that provides an orderly transition.".

(2) DEADLINE FOR ESTABLISHING NEW AREAS.—The Secretary of Health and Human Services shall establish end stage renal disease network areas, pursuant to the amendment made by paragraph (1), not later than May 1, 1987. The Secretary shall establish network administrative organizations for such areas by not later than July 1, 1987. 42 USC 1395rr note.

(3) TRANSITION.—If, under the amendment made by paragraph (1), the Secretary designates a network administrative organization for an area which was not previously designated for that area, the Secretary shall offer to continue to fund the previously designated organization for that area for a period of 30 days after the first date the newly designated organization assumes the duties of a network administrative organization for that area. 42 USC 1395rr note.

(e) PATIENT REPRESENTATION ON COUNCILS AND MEDICAL REVIEW BOARDS.—Subparagraph (B) of subsection (c)(1) of section 1881 of the Social Security Act is amended to read as follows: 42 USC 1395rr.

"(B) At least one patient representative shall serve as a member of each network council and each medical review board.".

(f) RESPONSIBILITIES OF NETWORK ORGANIZATIONS.—Subsection (c)(2) of section 1881 of such Act is amended—

(1) in subparagraph (A), by inserting before the semicolon the following: "and the participation of patients, providers of serv-

ices, and renal disease facilities in vocational rehabilitation programs";

(2) in subparagraph (B), by inserting before the first semicolon the following: "and with respect to working with patients, facilities, and providers in encouraging participation in vocational rehabilitation programs";

(3) in subparagraph (D), by inserting before the semicolon the following: "and reporting to the Secretary on facilities and providers that are not providing appropriate medical care";

(4) in subparagraph (E), by inserting "and encouraging participation in vocational rehabilitation programs" after "self-care settings and transplantation"; and

(5) by redesignating subparagraphs (D) and (E) as subparagraphs (G) and (H), respectively, and inserting after subparagraph (C) the following new subparagraphs:

"(D) implementing a procedure for evaluating and resolving patient grievances;

"(E) conducting on-site reviews of facilities and providers as necessary (as determined by a medical review board or the Secretary), utilizing standards of care established by the network organization to assure proper medical care;

Reports.

"(F) collecting, validating, and analyzing such data as are necessary to prepare the reports required by subparagraph (H) and subsection (g) and to assure the maintenance of the registry established under paragraph (7);".

(g) FACILITY COOPERATION WITH NETWORKS.—The first sentence of subsection (c)(3) of section 1881 of such Act is amended by inserting "or to follow the recommendations of the medical review board" after "consistently failed to cooperate with network plans and goals".

100 STAT. 2032

42 USC 1395rr.

(h) INTENT OF CONGRESS RESPECTING MAXIMUM USE OF VOCATIONAL REHABILITATION SERVICES.—The first sentence of subsection (c)(6) of section 1881 of such Act is amended by inserting before the period the following: "and that the maximum practical number of patients who are suitable candidates for vocational rehabilitation services be given access to such services and encouraged to return to gainful employment".

42 USC 1395rr.

(i) NATIONAL END STAGE RENAL DISEASE REGISTRY.—

(1) ESTABLISHMENT OF REGISTRY.—Subsection (c) of section 1881 of such Act is further amended by adding at the end the following new paragraph:

"(7) The Secretary shall establish a national end stage renal disease registry the purpose of which shall be to assemble and analyze the data reported by network organizations, transplant centers, and other sources on all end stage renal disease patients in a manner that will permit—

Reports.

"(A) the preparation of the annual report to the Congress required under subsection (g);

"(B) an identification of the economic impact, cost-effectiveness, and medical efficacy of alternative modalities of treatment;

Research and development.

"(C) an evaluation with respect to the most appropriate allocation of resources for the treatment and research into the cause of end stage renal disease;

"(D) the determination of patient mortality and morbidity rates, and trends in such rates, and other indices of quality of care; and

"(E) such other analyses relating to the treatment and management of end stage renal disease as will assist the Congress in evaluating the end stage renal disease program under this section.

The Secretary shall provide for such coordination of data collection activities, and such consolidation of existing end stage renal disease data systems, as is necessary to achieve the purpose of such registry, shall determine the appropriate location of the registry, and shall provide for the appointment of a professional advisory group to assist the Secretary in the formulation of policies and procedures relevant to the management of such registry.".

(2) REPORT.—The Secretary of Health and Human Services shall submit to the Congress, no later than April 1, 1987, a full report on the progress made in establishing the national end stage renal disease registry under the amendment made by paragraph (1) and shall establish such registry by not later than January 1, 1988. 42 USC 1395rr note.

(j) FUNDING OF ESRD NETWORK ORGANIZATIONS.—

(1) IN GENERAL.—Subsection (b)(7) of section 1881 of the Social Security Act is amended by adding at the end the following new sentence: "The Secretary shall reduce the amount of each composite rate payment under this paragraph for each treatment by 50 cents (subject to such adjustments as may be required to reflect modes of dialysis other than hemodialysis) and provide for payment of such amount to the network administrative organization (designated under subsection (c)(1)(A) for the network area in which the treatment is provided) for its necessary and proper administrative costs incurred in carrying out its responsibilities under subsection (c)(2).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to treatment furnished on or after January 1, 1987. 42 USC 1395rr note.

(k) PROTOCOLS ON REUSE OF DIALYSIS FILTERS AND OTHER DIALYSIS SUPPLIES.—

(1) ESTABLISHMENT OF PROTOCOLS.—Paragraph (7) of subsection (f) of section 1881 of the Social Security Act is amended to read as follows: 42 USC 1395rr.

"(7)(A) The Secretary shall establish protocols on standards and conditions for the reuse of dialyzer filters for those facilities and providers which voluntarily elect to reuse such filters.

"(B) With respect to dialysis services furnished on or after January 1, 1988, no dialysis facility may reuse dialysis supplies (other than dialyzer filters) unless the Secretary has established a protocol with respect to the reuse of such supplies and the facility follows the protocol so established.

"(C) The Secretary shall incorporate protocols established under this paragraph, and the requirement of subparagraph (B), into the requirements for facilities prescribed under subsection (b)(1)(A) and failure to follow such a protocol or requirement subjects such a facility to denial of participation in the program established under this section and to denial of payment for dialysis treatment not furnished in compliance with such a protocol or in violation of such requirement.".

(2) DEADLINE.—The Secretary of Health and Human Services shall establish the protocols described in section 1881(f)(7)(A) of the Social Security Act by not later than October 1, 1987. 42 USC 1395rr note.

(l) EFFECTIVE DATE FOR CERTAIN AMENDMENTS.—The amendments made by subsections (e), (f), and (g) shall apply to network administrative organizations designated for network areas established under the amendment made by subsection (d)(1). 42 USC 1395rr note.

SEC. 9336. VISION CARE.

(a) DEFINING SERVICES AN OPTOMETRIST CAN PROVIDE.—Clause (4) of section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)) is amended to read as follows: "(4) a doctor of optometry, but only with respect to the provision of items or services described in subsection (s) which he is legally authorized to perform as a doctor of optometry by the State in which he performs them, or".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after April 1, 1987. 42 USC 1395x note.

SEC. 9337. OCCUPATIONAL THERAPY SERVICES.

(a) COVERAGE.—Subparagraph (C) of section 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2)) is amended to read as follows:

"(C) outpatient physical therapy services (other than services to which the second sentence of section 1861(p) applies) and outpatient occupational therapy services (other than services to which such sentence applies through the operation of section 1861(g));".

(b) LIMITATION ON PAYMENTS.—Section 1833(g) of such Act (42 U.S.C. 1395l(g)) is amended—

(1) by striking "next to last sentence" and inserting "second sentence", and

(2) by adding at the end thereof the following new sentence: "In the case of outpatient occupational therapy services which are described in the second sentence of section 1861(p) through the operation of section 1861(g), with respect to expenses in-
100 STAT. 2034
curred in any calendar year, no more than $500 shall be considered as incurred expenses for purposes of subsections (a) and (b).".

(c) CERTIFICATION STANDARD.—(1) Section 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is amended—

(A) by inserting "or outpatient occupational therapy services" after "outpatient physical therapy services",

(B) in clause (i), by inserting "or occupational therapy services, respectively," after "physical therapy services", and

(C) in clause (ii), by inserting "or qualified occupational therapist, respectively," after "qualified physical therapist".

(2) The second sentence of section 1835(a) of such Act and section 1866(e) of such Act (42 U.S.C. 1395n(a), 1395cc(e)) are each amended—

(A) by inserting "(or meets the requirements of such section through the operation of section 1861(g))" after "1861(p)(4)(A)" and after "1861(p)(4)(B)", and

(B) by inserting "or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services" after "(as therein defined)".

(d) DEFINITION AND INCLUSION WITH OTHER PART B SERVICES.—(1) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by inserting after subsection (f) the following new subsection:

"OUTPATIENT OCCUPATIONAL THERAPY SERVICES

"(g) The term 'outpatient occupational therapy services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that 'occupational' shall be substituted for 'physical' each place it appears therein.".

(2) Section 1861(s)(2)(D) of such Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting "and outpatient occupational therapy services" after "outpatient physical therapy services".

(3) Section 1861(v)(5)(A) of such Act (42 U.S.C. 1395x(v)(5)(A)) is amended by inserting "(including through the operation of section 1861(g))" after "section 1861(p)".

42 USC 1395k note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred for outpatient occupational therapy services furnished on or after July 1, 1987.

SEC. 9338. SERVICES OF A PHYSICIAN ASSISTANT.

(a) SERVICES COVERED.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 9335(c)(1) of this subtitle, is amended—

(1) by striking "and" at the end of subparagraph (I),

(2) by adding "and" at the end of subparagraph (J), and

(3) by adding at the end the following new subparagraph:

"(K)(i) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a physician assistant (as defined in subsection

(aa)(3)) under the supervision of a physician (as so defined) in a hospital, skilled nursing facility, or intermediate care facility (as defined in section 1905(c)) or as an assistant at surgery and which the physician assistant is legally authorized to perform by the State in which the services are performed, and 42 USC 1396d.

"(ii) such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished as an incident to a physician's professional service;".

(b) DETERMINATION OF PAYMENT AMOUNT.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)), as amended by section 9333(b), is amended by adding at the end the following new paragraph:

"(12)(A) With respect to services described in section 1861(s)(2)(K) (relating to a physician assistant acting under the supervision of a physician)— 42 USC 1395x.

"(i) payment under this part may only be made on an assignment-related basis; and

(ii) the prevailing charges determined under paragraph (3) shall not exceed—

"(I) in the case of services performed as an assistant at surgery, 65 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery, or

"(II) in other cases, the applicable percentage (as defined in subparagraph (B)) of the prevailing charge rate determined for such services performed by physicians who are not specialists.

"(B) In subparagraph (A)(ii)(II), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed (other than as an assistant at surgery) in a hospital, and

"(ii) 85 percent in the case of other services.

"(C) Except for deductible and coinsurance amounts applicable under section 1833, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in section 1861(s)(2)(K) in violation of subparagraph (A)(i) is subject to a civil monetary penalty of not to exceed $2,000 for each such bill or request. Such a penalty shall be imposed in the same manner as civil monetary penalties are imposed under section 1128A with respect to actions described in subsection (a) of that section.". *Ante,* p. 2014. *Ante,* pp. 2003, 2008.

(c) PAYMENT TO EMPLOYER.—The first sentence of section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6)) is amended—

(1) by striking "except that payment may be made (A)(i)" and inserting "except that (A) payment may be made (i)";

(2) by striking "or (B)" and by inserting "(B) payment may be made"; and

(3) by inserting before the period at the end the following: ", and (C) in the case of services described in section 1861(s)(2)(K) payment shall be made to the employer of the physician assistant involved".

(d) REDUCTION IN PAYMENT TO AVOID DUPLICATE PAYMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may reduce the amount of payments otherwise made to hospitals and skilled nursing facilities under title XVIII of the Social Security Act, so as to eliminate estimated duplicate payments for historical or current costs attributable to services described in section 1861(s)(2)(K) of such Act (for which payment may be made under the amendments made by this section). Hospitals. 42 USC 1395x note. 42 USC 1395.

(e) STUDY OF PAYMENT RATES.—The Secretary shall report to Congress, by not later than April 1, 1988, concerning adjustments to the amount of payment made, under part B of title XVIII of the Social Security Act, for services described in section 1861(s)(2)(K) of such Act, to ensure that the amount of such payments reflects the approximate cost of furnishing the services, taking into account Reports. 42 USC 1395x note. 42 USC 1395j.

100 STAT. 2036

compensation costs and overhead and supervision costs attributable to physician assistants.

42 USC 1395x note.

(f) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 1987.

SEC. 9339. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Treatment of Hospital Outpatient Laboratories.—

(1) In general.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended—

(A) in paragraph (1)(B), by striking "hospital laboratory" and inserting "qualified hospital laboratory (as defined in subparagraph (D))",

(B) in paragraph (1)(C)—

(i) in the first sentence, by striking "hospital laboratory" and inserting "qualified hospital laboratory (as defined in subparagraph (D))", and by striking ", and ending on December 31, 1987", and

(ii) by striking the second sentence;

(C) by adding at the end of paragraph (1) the following new subparagraph:

"(D) In this subsection, the term 'qualified hospital laboratory' means a hospital laboratory which provides some clinical diagnostic laboratory tests 24 hours a day in order to serve a hospital emergency room which is available to provide services 24 hours a day and 7 days a week."; and

(D) in paragraph (2), by striking "hospital laboratory" and inserting "qualified hospital laboratory (as defined in paragraph (1)(D))".

42 USC 1395l note.

(2) Effective date.—The amendments made by this subsection apply to clinical diagnostic laboratory tests performed on or after January 1, 1987.

(b) Delaying for 2 Years Requirement of National Fee Schedule.—

(1) In general.—Section 1833(h)(1)(B) of such Act is amended by striking "1987" and "1988" and inserting "1989" and "1990", respectively.

(2) Conforming amendment.—Section 1833(h)(2) of such Act is amended by striking "(or, effective January 1, 1988, for the United States)".

42 USC 1395l note.

(3) Report.—The Secretary of Health and Human Services shall report to Congress, by not later than April 1, 1988, on the advisability and feasibility of, and methodology for, establishing national fee schedules for payment for clinical diagnostic laboratory tests under section 1833(h) of the Social Security Act.

(c) Payment for Time and Travel Costs To Collect Samples From Certain Immobile Beneficiaries.—

(1) In general.—Section 1833(h)(3) of such Act is amended—

(A) by inserting "(A)" after "provide for and establish", and

(B) by inserting before the period at the end the following: ", and (B) a fee to cover the transportation and personnel expenses for trained personnel to travel to the location of an individual to collect the sample, except that such a fee may be provided only with respect to an individual who is homebound or an inpatient in an inpatient facility (other than a hospital)".

100 STAT. 2037

42 USC 1395l note.

(2) Effective date.—The amendment made by paragraph (1) shall apply to samples collected on or after January 1, 1987.

42 USC 1395l note.

(d) State Standards for Directors of Clinical Laboratories.—

42 USC 1395.

(1) In general.—If a State (as defined for purposes of title XVIII of the Social Security Act) provides for the licensing or other standards with respect to the operation of clinical laboratories (including such laboratories in hospitals) in the State under which such a laboratory may be directed by an individual

with certain qualifications, nothing in such title shall be construed as authorizing the Secretary of Health and Human Services to require such a laboratory, as a condition of payment or participation under such title, to be directed by an individual with other qualifications.

(2) Effective date.—Paragraph (1) shall take effect on January 1, 1987.

42 USC 1395ww note.

Ante, p. 177.

(e) Extension of Moratorium on Laboratory Payment Demonstration.—Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "January 1, 1987" and inserting "January 1, 1988".

SEC. 9340. PAYMENT FOR PARENTERAL AND ENTERAL NUTRITION SUPPLIES AND EQUIPMENT.

42 USC 1395u note.

The Secretary of Health and Human Services shall apply the sixth sentence of section 1842(b)(3) of the Social Security Act to payment—

(1) for enteral nutrition nutrients, supplies, and equipment and parenteral nutrition supplies and equipment furnished on or after January 1, 1987, and

(2) for parenteral nutrition nutrients furnished on or after October 1, 1987.

SEC. 9341. CHANGING MEDICARE APPEAL RIGHTS.

(a) Review of Part B Determinations.—(1) Section 1869 of the Social Security Act (42 U.S.C. 1395ff) is amended—

(A) by inserting "or part B" in subsection (a) after "amount of benefits under part A",

(B) by inserting "or part B" in subsection (b)(1)(C) after "part A",

(C) by amending paragraph (2) of subsection (b) to read as follows:

"(2) Notwithstanding paragraph (1)(C), in the case of a claim arising—

"(A) under part A, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $100 and judicial review shall not be available to the individual under that paragraph if the amount in controversy is less than $1,000; or

"(B) under part B, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than $500 and judicial review shall not be available to the individual under that paragraph if the aggregate amount in controversy is less than $1,000.

Regulations. Claims.

In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.", and

100 STAT. 2038

(D) by adding at the end the following new paragraphs:

42 USC 1395y.

"(3) Review of any national coverage determination under section 1862(a)(1) respecting whether or not a particular type or class of items or services is covered under this title shall be subject to the following limitations:

"(A) Such a determination shall not be reviewed by any administrative law judge.

5 USC 500 *et seq*; *ante*, p. 2017.

"(B) Such a determination shall not be held unlawful or set aside on the ground that a requirement of chapter 5 of title 5, United States Code, or section 1871(b), relating to publication in the Federal Register or opportunity for public comment, was not satisfied.

Records.

"(C) In any case in which a court determines that the record is incomplete or otherwise lacks adequate information to support the validity of the determination, it shall remand the matter to the Secretary for additional proceedings to supplement the record and the court may not determine that an item or service is covered except upon review of the supplemented record.

"(4) A regulation or instruction which relates to a method for determining the amount of payment under part B and which was initially issued before January 1, 1981, shall not be subject to judicial review.".

(2) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking "$100 or more" and inserting "at least $100, but not more than $500".

(3) Section 1879(d) of such Act (42 U.S.C. 1395pp(d)) is amended by striking "section 1869(b)" and all that follows through "part B)" and inserting "sections 1869(b) and 1842(b)(3)(C) (as may be applicable)".

42 USC 1395ff.
42 USC 1395ff note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items and services furnished on or after January 1, 1987.

42 USC 1395b-1 note.

SEC. 9342. ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct at least 5 (and not more than 10) demonstration projects to determine the effectiveness, cost, and impact on health status and functioning of providing comprehensive services for individuals entitled to benefits under title XVIII of the Social Security Act (in this section referred to as "medicare beneficiaries") who are victims of Alzheimer's disease or related disorders.

42 USC 1395.

(b) SERVICES UNDER DEMONSTRATION PROJECTS.—The services provided under demonstration projects must be designed to meet the specific needs of Alzheimer's disease patients and may include—

(1) case management services,

(2) home and community-based services,

(3) mental health services,

(4) outpatient drug therapy,

(5) respite care and other supportive services and counseling for family,

(6) adult day care services, and

(7) other in-home services.

(c) CONDUCT OF PROJECTS.—The demonstration projects shall—

(1) each be conducted over a period of 3 years;

(2) provide each medicare beneficiary with a comprehensive medical and mental status evaluation upon entering the project and at discharge;

Contracts.

(3) be conducted by an entity which either directly or by contract is able to provide such comprehensive evaluations and the additional services (described in subsection (b)) covered by the project;

State and local governments.

(4) be conducted in sites which are chosen so as to be geographically diverse and located in States with a high proportion of medicare beneficiaries and in areas readily accessible to a significant number of medicare beneficiaries; and

(5) involve community outreach efforts at each site to enroll the maximum number of medicare beneficiaries in each project.

(d) EVALUATION AND REPORTS.—The Secretary shall provide for an evaluation of the demonstration projects and shall submit to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) a preliminary report during the third year of the projects, which report shall include a description of the sites at which the projects are being conducted and the services being provided at the different sites, and

(2) a final report upon completion of the projects, which report shall include recommendations for appropriate legislative changes.

Grants.
Contracts.

(f) FUNDING.—Expenditures (not to exceed $40,000,000 for the projects and $2,000,000 for the evaluation of the projects) made for the demonstration projects shall be made from the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. 42 USC 1395t.

(g) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act to the extent and for the period the Secretary finds necessary for the conduct of the demonstration projects. 42 USC 1395.

SEC. 9343. PAYMENTS FOR AMBULATORY SURGERY.

(a) AMOUNTS PAYABLE; ANNUAL UPDATING.—

(1)(A) Section 1833(a)(4) of the Social Security Act (42 U.S.C. 1395l(a)(4)) is amended to read as follows:

"(4) in the case of facility services described in section 1832(a)(2)(F), and outpatient hospital facility services furnished in connection with surgical procedures specified by the Secretary pursuant to section 1833(i)(1)(A), the applicable amount as determined under paragraph (2) or (3) of subsection (i).". Hospitals. 42 USC 1395k.

(B) Section 1833(i) of such Act (42 U.S.C. 1395l(i)) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and inserting after paragraph (2) the following new paragraph:

"(3)(A) The aggregate amount of the payments to be made under this part for outpatient hospital facility services furnished in connection with surgical procedures specified under paragraph (1)(A) in a cost reporting period shall be equal to the lesser of— Hospitals.

"(i) the amount determined with respect to such services under subsection (a)(2)(B); or

"(ii) the blend amount (described in subparagraph (B)).

100 STAT. 2040

"(B)(i) The blend amount for a cost reporting period is the sum of—

"(I) the cost proportion (as defined in clause (ii)(I)) of the amount described in subparagraph (A)(i), and

"(II) the ASC proportion (as defined in clause (ii)(II)) of 80 percent of the standard overhead amount payable with respect to the same surgical procedure as if it were provided in an ambulatory surgical center in the same area, as determined under paragraph (2)(A).

"(ii) In this paragraph:

"(I) The term 'cost proportion' means 75 percent for cost reporting periods beginning in fiscal year 1988, and 50 percent for other cost reporting periods.

"(II) The term 'ASC proportion' means 25 percent for cost reporting periods beginning in fiscal year 1988, and 50 percent for other cost reporting periods.".

(2) CONFORMING AMENDMENT.—Section 1833(b)(3) of such Act is amended by striking "or (i)(4)" and inserting in lieu thereof "or (i)(5)". 42 USC 1395*l*.

(b) UPDATING ASC RATES.—

(1) RATE UPDATE.—Subparagraphs (A) and (B) of section 1833(i)(2) of such Act are each amended by striking "shall be reviewed periodically" and inserting in lieu thereof "shall be reviewed and updated not later than July 1, 1987, and annually thereafter".

(2) ASC LIST UPDATE.—Section 1833(i)(1) of such Act is amended by adding at the end (after and below subparagraph (B)) the following:

"The lists of procedures established under subparagraphs (A) and (B) shall be reviewed and updated not less often than every 2 years.".

(c) PREVENTING UNBUNDLING OF HOSPITAL OUTPATIENT SERVICES.—

(1) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "inpatient" and inserting "patient".

(2) Section 1866(a)(1)(H) of such Act (42 U.S.C. 1395cc(a)(1)(H)) is amended—

(A) by striking "inpatient hospital", and

(B) by striking "an inpatient" and inserting "a patient".

(3) Section 1866 of such Act (42 U.S.C. 1395cc) is further amended by adding at the end the following new subsection:

Hospitals.

"(g) Except as permitted under subsection (a)(2), any person who knowingly and willfully presents, or causes to be presented, a bill or request for payment for a hospital outpatient service for which payment may be made under part B and such bill or request violates an arrangement under subsection (a)(1)(H), is subject to a civil monetary penalty of not to exceed $2,000. Such a penalty shall be imposed in the same manner as civil monetary penalties are imposed under section 1128A with respect to actions described in subsection (a) of that section.".

Ante, pp. 2003, 2008.

(d) PRO REVIEW.—

(1) Section 1154(a)(1) of the Social Security Act (42 U.S.C. 1320c-3(a)(1)) is amended by inserting "and subject to the requirements of subsection (d)" after "subject to the terms of the contract".

(2) Section 1154 of such Act is amended by adding at the end the following new subsection:

100 STAT. 2041

Contracts.

"(d) Each contract under this part shall require that the utilization and quality control peer review organization's review responsibility pursuant to subsection (a)(1) will include review of all ambulatory surgical procedures specified pursuant to section 1833(i)(1)(A) which are performed in the area, or, at the discretion of the Secretary (and except as provided in section 1164(b)(4)) a sample of such procedures.".

42 USC 1395*l*.
42 USC 1320c-13.

(e) COINSURANCE AND DEDUCTIBLE TO APPLY WITHOUT REGARD TO SETTING OF AMBULATORY SURGERY.—

(1) Clauses (i) and (ii) of section 1832(a)(2)(F) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)) are each amended by inserting "standard overhead" before "amount".

(2)(A) Section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4).

(B) Subparagraphs (A) and (B) of section 1833(i)(2) of such Act are each amended by inserting "80 percent of" before "a standard overhead amount".

(f) DEVELOPMENT OF PROSPECTIVE PAYMENT METHODOLOGY FOR OUTPATIENT HOSPITAL SERVICES.—Section 1135 of the Social Security Act (42 U.S.C. 1320b-5) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall develop a fully prospective payment system for ambulatory surgical procedures performed on patients in hospitals on an outpatient basis.

"(2) The system shall, to the extent practicable, provide for an all-inclusive payment rate for ambulatory surgical procedures performed on patients in hospitals on an outpatient basis, which rate encompasses payment for facility services and all medical and other health services, other than physicians' services, commonly furnished in connection with such procedures.

"(3) The system shall provide for appropriate payment rates with respect to such procedures.

"(4) Such rates shall take into account at least the following considerations:

"(A) The costs of hospitals providing ambulatory surgical procedures.

"(B) The costs under this title of payment for such procedures performed in ambulatory surgical centers.

"(C) The extent to which any differences in such costs are justifiable.

"(5) The Secretary shall submit to Congress—

Reports.

"(A) an interim report on the development of the system by April 1, 1988, and

"(B) a final report on such system by April 1, 1989.

The report under subparagraph (B) shall include recommendations concerning the implementation of the payment system for ambulatory surgical procedures performed on or after October 1, 1989.

"(6)(A) The Secretary shall develop a model system for the payment for outpatient hospital services other than ambulatory surgery.

Reports.

"(B) The Secretary shall submit to Congress a report on the model payment system under subparagraph (A) by January 1, 1991.".

Claims.
42 USC 1395u note.
42 USC 1395j.

(g) Reporting of OPD Services Using HCPCS.—Not later than July 1, 1987, each fiscal intermediary which processes claims under part B of title XVIII of the Social Security Act shall require hospitals, as a condition of payment for outpatient hospital services under that part, to report claims for payment for such services under such part using a HCFA Common Procedure Coding System.

100 STAT. 2042

42 USC 1395*l* note.

(h) Effective Dates.—

(1) The amendments made by subsection (a)(1) shall apply to cost reporting periods beginning on or after October 1, 1987

(2) The amendments made by subsections (b)(1) and (d) shall apply to services furnished after June 30, 1987.

(3) The Secretary of Health and Human Services shall first provide, under the amendment made by subsection (b)(2), for the review and update of procedure lists within 6 months after the date of the enactment of this Act.

Contracts.

(4) The amendments made by subsection (c) shall apply to contracts entered into or renewed after January 1, 1987.

SEC. 9344. TECHNICAL AMENDMENTS AND MISCELLANEOUS PROVISIONS RELATING TO PART B.

(a) Additional members for Physician Payment Review Commission.—

(1) 2 additional members.—Section 1845(a)(2) of the Social Security Act (42 U.S.C. 1395w–1(a)(2)) is amended by striking "11 individuals" and inserting "13 individuals".

42 USC 1395w–1 note.

(2) Appointment of additional members.—The Director of the Congressional Office of Technology Assessment shall appoint the two additional members of the Physician Payment Review Commission, as required by the amendment made by paragraph (1), no later than 60 days after the date of the enactment of this Act, for terms of 3 years, except that the Director may provide initially for such terms as will insure that (on a continuing basis) the terms of no more than five members expire in any one year.

(b) Effective Date of Voluntary Disenrollment from Medicare.—

42 USC 1395q.

(1) In general.—The second and sixth sentences of section 1838(b) of the Social Security Act (42 U.S.C. 1395p(b)) are each amended by striking "calendar quarter following the calendar quarter" and inserting "month following the month".

42 USC 1395q note.

(2) Effective date.—The amendments made by paragraph (1) shall apply to notices filed on or after July 1, 1987.

42 USC 1395j.

(c) Study on Prospective Payment of Radiology, Anesthesia, and Pathology Services to Hospital Inpatients.—The Secretary of Health and Human Services shall study and report to Congress by July 1, 1987, concerning the design and implementation of a prospective payment system for payment, under part B of title XVIII of the Social Security, for radiology, anesthesia, and pathology services furnished to hospital inpatients. Such report shall include data, from a representative sample, showing, for discharges classified within each diagnosis-related group, the distribution of total reasonable charges and costs for each inpatient discharge for such services.

42 USC 1395b-1 note.
Ante, p. 194.

(d) PREVENTIVE HEALTH SERVICES DEMONSTRATION PROGRAM.—Effective as if included in section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 when such section was enacted, such section is amended—

Rural areas.

(1) in subsection (c)(2), by inserting "(at least one of which shall serve a rural area)" after "five sites", and

(2) by striking the last sentence of subsection (f) and inserting the following: "Funding for the administrative costs of the demonstration program shall not exceed $5,900,000 over the duration of the program.".

100 STAT. 2043

PART 4—IMPROVED REVIEW OF QUALITY BY PEER REVIEW ORGANIZATIONS

SEC. 9351. PRO REVIEW OF HOSPITAL DENIAL NOTICES.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3), as amended by section 9343(d)(2) of this subtitle, is amended by adding at the end the following new subsection:

"(e)(1) If—

"(A) a hospital has determined that a patient no longer requires inpatient hospital care, and

Physicians.

"(B) the attending physician has agreed with the hospital's determination,

the hospital may provide the patient (or the patient's representative) with a notice (meeting conditions prescribed by the Secretary under section 1879) of the determination.

Ante, p. 1991.

"(2) If—

"(A) a hospital has determined that a patient no longer requires inpatient hospital care, but

"(B) the attending physician has not agreed with the hospital's determination,

the hospital may request the appropriate peer review organization to review under subsection (a) the validity of the hospital's determination.

"(3)(A) If a patient (or a patient's representative)—

"(i) has received a notice under paragraph (1), and

"(ii) requests the appropriate peer review organization to review the determination,

then, the organization shall conduct a review under subsection (a) of the validity of the hospital's determination and shall provide notice (by telephone and in writing) to the patient or representative and the hospital and attending physician involved of the results of the review. Such review shall be conducted regardless of whether or not the hospital will charge for continued hospital care or whether or not the patient will be liable for payment for such continued care.

"(B) If a patient (or a patient's representative) requests a review under subparagraph (A) while the patient is still an inpatient in the hospital and not later than noon of the first working day after the date the patient receives the notice under paragraph (1), then—

Records.

"(i) the hospital shall provide to the appropriate peer review organization the records required to review the determination by the close of business of such first working day, and

"(ii) the peer review organization must provide the notice under subparagraph (A) by not later than one full working day after the date the organization has received the request and such records.

"(4) If—

"(A) a request is made under paragraph (3)(A) not later than noon of the first working day after the date the patient (or patient's representative) receives the notice under paragraph (1), and

"(B) the conditions described in section 1879(a)(2) with respect to the patient or representative are met, the hospital may not charge the patient for inpatient hospital services furnished before noon of the day after the date the patient or representative receives notice of the peer review organization's decision.

"(5) In any review conducted under paragraph (2) or (3), the organization shall solicit the views of the patient involved (or the patient's representative).".

42 USC 1320c-3 note.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to denial notices furnished by hospitals to individuals on or after the first day of the first month that begins more than 30 days after the date of the enactment of this Act.

(2) Section 1154(e)(4) of the Social Security Act (as added by the amendment made by subsection (a)) shall take effect on the date of the enactment of this Act.

SEC. 9352. PRO REVIEW OF INPATIENT HOSPITAL SERVICES AND EARLY READMISSION CASES.

(a) TIMELY PROVISION OF HOSPITAL INFORMATION.—(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c–2) is amended by adding at the end the following new subsection:

"(g) The Secretary shall provide that fiscal intermediaries furnish to peer review organizations, each month on a timely basis, data necessary to initiate the review process under section 1154(a) on a timely basis. If the Secretary determines that a fiscal intermediary is unable to furnish such data on a timely basis, the Secretary shall require the hospital to do so.".

42 USC 1320c-3.

(2) Section 1816(a) of such Act (42 U.S.C. 1395h(a)) is amended by adding at the end the following: "As used in this title and part B of title XI, the term 'fiscal intermediary' means an agency or organization with a contract under this section.".

Contracts.

42 USC 1320c.

(b) REQUIRING REVIEW OF EARLY READMISSION CASES.—Section 1154(a) of such Act (42 U.S.C. 1320c–3(a)), as amended by section 9401(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by adding at the end the following new paragraph:

Ante, p. 196.

"(13) Notwithstanding paragraph (4), the organization shall perform the review described in paragraph (1) with respect to early readmission cases to determine if the previous inpatient hospital services and the post-hospital services met professionally recognized standards of health care. Such reviews may be performed on a sample basis if the organization and the Secretary determine it to be appropriate. In this paragraph, an 'early readmission case' is a case in which an individual, after discharge from a hospital, is readmitted to a hospital less than 31 days after the date of the most recent previous discharge.".

(c) EFFECTIVE DATES.—(1) The Secretary of Health and Human Services shall implement the amendment made by subsection (a) not later than 6 months after the date of the enactment of this Act.

42 USC 1320c-2 note.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after January 1, 1987, except that in applying such amendment before January 1, 1989, the term "post-hospital services" does not include physicians' services, other than physicians' services furnished in a hospital, other inpatient facility, ambulatory surgical center, or rural health clinic.

Contracts.
42 USC 1320c-3 note.

SEC. 9353. PRO REVIEW OF QUALITY OF CARE.

(a) REQUIRING PRO REVIEW OF QUALITY OF CARE.—

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(1) ALLOCATION OF FUNDS FOR QUALITY CARE REVIEW.—Section 1154(a)(4) of the Social Security Act (42 U.S.C. 1320c–3(a)(4)) is amended by adding at the end the following: "Each peer review organization shall provide that a reasonable proportion of its activities are involved with reviewing, under paragraph (1)(B), the quality of services and that a reasonable allocation of such activities is made among the different cases and settings (including post-acute-care settings, ambulatory settings, and health

maintenance organizations). In establishing such allocation, the organization shall consider (i) whether there is reason to believe that there is a particular need for reviews of particular cases or settings because of previous problems regarding quality of care, (ii) the cost of such reviews and the likely yield of such reviews in terms of number and seriousness of quality of care problems likely to be discovered as a result of such reviews, and (iii) the availability and adequacy of alternative quality review and assurance mechanisms.".

(2) REQUIRING REVIEW OF HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Such section is further amended—

(A) by inserting "(A)" after "(4)";

(B) by adding at the end the following new subparagraph:

Contracts.

42 USC 1395mm.

"(B) The contract of each organization shall provide for the review of services (including both inpatient and outpatient services) provided by eligible organizations pursuant to a contract under section 1876 for the purpose of determining whether the quality of such services meets professionally recognized standards of health care, including whether appropriate health care services have not been provided or have been provided in inappropriate settings. The previous sentence shall not apply with respect to a contract year if another entity has been awarded a contract under subparagraph (C).";

Contracts.

(C) by adding at the end of such subparagraph the following: "Under the contract the level of effort expended by the organization on reviews under this subparagraph shall be equivalent, on a per enrollee basis, to the level of effort expended by the organization on utilization and quality reviews performed with respect to individuals not enrolled with an eligible organization."; and

(D) by adding at the end the following additional new subparagraph:

Contracts.
State and local governments.

"(C) The Secretary may provide, by contract under competitive procurement procedures on a State-by-State basis in up to 25 States, for the review described in subparagraph (B) by an appropriate entity (which may be a peer review organization described in that subparagraph). In selecting among States in which to conduct such competitive procurement procedures, the Secretary may not select States which, as a group, have more than 50 percent of the total number of individuals enrolled with eligible organizations under section 1876. Under a contract with an entity under this subparagraph—

42 USC 1320c-1.

"(i) the entity must be, or must meet all the requirements under section 1152 to be, a utilization and quality control peer review organization,

42 USC 1320c-2.

"(ii) the contract must meet the requirement of section 1153(b)(3), and

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"(iii) the level of effort expended under the contract shall be, to the extent practicable, not less than the level of effort that would otherwise be required under the third sentence of subparagraph (B) if this subparagraph did not apply.".

(3) IDENTIFICATION OF METHODS FOR IDENTIFYING CASES OF SUBSTANDARD CARE.—Section 1154 of such Act (42 U.S.C. 1320c-3), as amended by sections 9343(d)(2) and 9351(a), is amended by adding at the end the following new subsection:

"(f) The Secretary, in consultation with appropriate experts, shall identify methods that would be available to assist peer review organizations (under subsection (a)(4)) in identifying those cases which are more likely than others to be associated with a quality of services which does not meet professionally recognized standards of health care.".

(4) SMALL-AREA ANALYSIS.—The Secretary of Health and Human Services shall provide, to at least 12 utilization and quality control peer review organizations with contracts under part B of title XI of the Social Security Act, data and data processing assistance to allow each of these organizations to review and analyze small-area variations, in the service area of the organization, in the utilization of hospital and other health care services for which payment is made under title XVIII of such Act.

42 USC 1320c-3 note.

42 USC 1320c.

42 USC 1395.

(5) CONFORMING AMENDMENT.—Section 9405 of the Consolidated Omnibus Budget Reconciliation Act of 1986 is amended by striking "January" and inserting "April".

42 USC 1320c-3 note.

(6) EFFECTIVE DATES.—(A)(i) Except as provided in clause (ii), the amendments made by paragraphs (1) and (2)(D) shall apply to contracts as of January 1, 1987.

Contracts.
42 USC 1320c-3 note.

(ii) The amendment made by paragraph (1) shall not be construed as requiring, before January 1, 1989, the review of physicians' services, other than physicians' services furnished in a hospital, other inpatient facility, ambulatory surgical center, or rural health clinic.

(B) The amendment made by paragraph (2)(B) shall apply to contracts as of April 1, 1987.

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(C) The amendment made by paragraph (2)(C) shall apply to review activities conducted by organizations on or after January 1, 1988.

(D) The amendment made by paragraph (3) becomes effective on the date of the enactment of this Act.

(b) REQUIRING CONSUMER REPRESENTATIVE ON PEER REVIEW BOARDS.—

(1) IN GENERAL.—Section 1152 of such Act (42 U.S.C. 1320c-1) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(3) has at least one individual who is a representative of consumers on its governing body.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts entered into or renewed on or after January 1, 1987.

Contracts.
42 USC 1320c-1 note.

(c) IMPROVING PEER REVIEW RESPONSIVENESS TO BENEFICIARY COMPLAINTS.—

(1) APPROPRIATE REVIEW OF COMPLAINTS REQUIRED.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)), as amended by section 9352(b), is further amended by adding at the end the following new paragraph:

"(14) The organization shall conduct an appropriate review of all written complaints about the quality of services (for which payment may otherwise be made under title XVIII) not meeting professionally recognized standards of health care, if the complaint is filed with the organization by an individual entitled to benefits for such services under such title (or a person acting on the individual's behalf). The organization shall inform the individual (or representative) of the organization's final disposition of the complaint. Before the organization concludes that the quality of services does not meet professionally recognized standards of health care, the organization must provide the practitioner or person concerned with reasonable notice and opportunity for discussion.".

42 USC 1395.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to complaints received on or after the first day of the first month that begins more than 9 months after the date of the enactment of this Act.

42 USC 1320c-3 note.

(d) Sharing of Information by Peer Review Organizations.—

(1) In general.—Subparagraph (C) of section 1160(b)(1) of such Act (42 U.S.C. 1320c-9(b)(1)) is amended to read as follows:

State and local governments.

42 USC 1395bb.

"(C) to assist appropriate State agencies recognized by the Secretary as having responsibility for licensing or certification of providers or practitioners or to assist national accreditation bodies acting pursuant to section 1865 in accrediting providers for purposes of meeting the conditions described in title XVIII, which data and information shall be provided by the peer review organization to any such agency or body at the request of such agency or body relating to a specific case or to a possible pattern of substandard care, but only to the extent that such data and information are required by the agency or body to carry out its respective function which is within the jurisdiction of the agency or body under State law or under section 1865;".

42 USC 1320c-9 note.

(2) Effective date.—The amendments made by paragraph (1) shall apply to requests for data and information made on and after the end of the 6-month period beginning on the date of the enactment of this Act.

(e) Funding of Additional PRO Activities.—

(1) Through agreements with hospitals, skilled nursing facilities, and home health agencies.—Section 1866(a) of such Act (42 U.S.C. 1395cc(a)) is amended—

(A) in paragraph (1)(F)—

(i) by redesignating clauses (i), (ii), and (iii), as subclauses (I), (II), and (III), respectively,

(ii) by inserting "(i)" after "(F)", and

(iii) by adding at the end the following new clause:

Contracts.

42 USC 1320c.

"(ii) in the case of hospitals, skilled nursing facilities, and home health agencies, to maintain an agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the hospital, facility, or agency is located) to perform the functions described in paragraph (4)(A);"; and

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(B) by adding at the end the following new paragraph:

"(4)(A) Under the agreement required under paragraph (1)(F)(ii), the peer review organization must perform functions (other than those covered under an agreement under paragraph (1)(F)(i)) under the third sentence of section 1154(a)(4)(A) and under section 1154(a)(14) with respect to services, furnished by the hospital, facility, or agency involved, for which payment may be made under this title.

"(B) For purposes of payment under this title, the cost of such an agreement to the hospital, facility, or agency shall be considered a cost incurred by such hospital, facility, or agency in providing covered services under this title and shall be paid directly by the Secretary to the peer review organization on behalf of such hospital, facility, or agency in accordance with a schedule established by the Secretary.

"(C) Such payments—

"(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

"(ii) shall not be less in the aggregate for hospitals, facilities, and agencies for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such hospitals, facilities, or agencies under part B of title XI.".

42 USC 1320c.

(2) THROUGH AGREEMENTS WITH HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)), as amended by section 9312(f) of this subtitle, is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided under section 1154(a)(4)(C), each risk-sharing contract with an eligible organization under this section shall provide that the organization will maintain an agreement with a utilization and quality control peer review organization (which has a contract with the Secretary under part B of title XI for the area in which the eligible organization is located) under which the peer review organization will perform functions under section 1154(a)(4)(B) and section 1154(a)(14) (other than those performed under contracts described in section 1866(a)(1)(F)) with respect to services, furnished by the eligible organization, for which payment may be made under this title.

42 USC 1395cc.

"(B) For purposes of payment under this title, the cost of such agreement to the eligible organization shall be considered a cost incurred by a provider of services in providing covered services under this title and shall be paid directly by the Secretary to the peer review organization on behalf of such eligible organization in accordance with a schedule established by the Secretary.

"(C) Such payments—

"(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

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"(ii) shall not be less in the aggregate for such organizations for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting activities described in subparagraph (A) with respect to such eligible organizations under part B of title XI.".

42 USC 1320c.

(3) EFFECTIVE DATE.—

(A) HOSPITALS, SKILLED NURSING FACILITIES, AND HOME HEALTH AGENCIES.—The amendments made by paragraph (1) shall apply to provider agreements as of October 1, 1987.

42 USC 1395cc note.

(B) HMOs AND CMPs.—The amendment made by paragraph (2) shall apply to risk-sharing contracts with eligible organizations, under section 1876 of the Social Security Act, as of April 1, 1987.

Contracts.
42 USC 1395mm note.
42 USC 1395mm.

Subtitle E—Medicaid and Maternal and Child Health

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PART 1—COVERAGE OF INDIVIDUALS

SEC. 9401. OPTIONAL COVERAGE OF POOR PREGNANT WOMEN, INFANTS, AND CHILDREN.

(a) CREATION OF NEW OPTIONAL CATEGORICALLY NEEDY GROUP.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking ", or" at the end of subclause (VII) and inserting a semicolon,

(2) by inserting "or" at the end of subclause (VIII), and

(3) by adding at the end the following new subclause:

"(IX) subject to subsection (l)(4), who are described in subsection (l)(1);".

(b) DESCRIPTION OF GROUP.—Section 1902 of such Act is amended by inserting after subsection (k) the following new subsection:

"(l)(1) Individuals described in this paragraph are—

"(A) women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy),

"(B) infants under one year of age,

"(C) children who have attained one year of age but have not attained two years of age,

"(D) children who have attained two years of age but have not attained three years of age,

"(E) children who have attained three years of age but have not attained four years of age, and

State and local governments.

"(F) children who have attained four years of age but have not yet attained five years of age,

who are not described in subsection (a)(10)(A)(i), whose family income does not exceed the income level established by the State under paragraph (2) for a family size equal to the size of the family, including the woman, infant, or child.

42 USC 9902.

"(2) For purposes of paragraph (1), the State shall establish an income level which is a percentage (not more than 100 percent) of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(3) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IX)—

"(A) application of a resource standard shall be at the option of the State;

"(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (A) of paragraph (1) may not be more restrictive than the resource standard or methodology that is applied under title XVI; 42 USC 1381.

"(C) any resource standard or methodology that is applied with respect to an individual described in subparagraph (B), (C), (D), (E), or (F) of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV; 42 USC 601.

"(D) the income standard to be applied is the income standard established under paragraph (2); and

"(E) family income shall be determined in accordance with the methodology employed under the State plan under part A

or E of title IV, and costs incurred for medical care or for any other type of remedial care shall not be taken into account. 42 USC 670.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

"(4)(A) A State plan may not elect the option of furnishing medical assistance to individuals described in subsection (a)(10)(A)(ii)(IX) unless the State has in effect, under its plan established under part A of title IV, payment levels that are not less than the payment levels in effect under its plan on April 17, 1986. State and local governments.

"(B)(i) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover only individuals described in paragraph (1)(A) or to cover only individuals described in paragraph (1)(B).

"(ii) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover individuals described in subparagraph (C), (D), (E), or (F) of paragraph (1) unless the State has elected, under such subsection, to cover individuals described in the preceding subparagraphs of such paragraph.".

(c) LIMITED BENEFITS FOR NEWLY ELIGIBLE PREGNANT WOMEN.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D)—

(1) by striking "and" before "(VI)", and

(2) by inserting before the semicolon at the end the following: ", and (VII) the medical assistance made available to an individual described in subsection (l)(1)(A) who is eligible for medical assistance only because of subparagraph (A)(ii)(IX) shall be limited to medical assistance for services related to pregnancy (including prenatal, delivery, and postpartum services) and to other conditions which may complicate pregnancy".

(d) CONTINUATION OF MEDICAL ASSISTANCE FOR CERTAIN PREGNANT WOMEN DURING PREGNANCY AND FOR CERTAIN INFANTS AND CHILDREN RECEIVING INPATIENT SERVICES.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraphs:

"(6) At the option of a State, if a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), the plan may provide that any woman described in such subsection and subsection (l)(1)(A) shall continue to be treated as an individual described in subsection (a)(10)(A)(ii)(IX) without regard to any change in income of the family of which she is a member until the end of the 60-day period beginning on the last day of her pregnancy. State and local governments.

"(7) If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in the case of an infant or child described in subparagraph (B), (C), (D), (E), or (F) of subsection (l)(1)—

"(A) who is receiving inpatient services for which medical assistance is provided on the date the infant or child attains the maximum age with respect to which coverage is provided under the State plan for such individuals, and

"(B) who, but for attaining such age, would remain eligible for medical assistance under such subsection,

the infant or child shall continue to be treated as an individual described in subsection (a)(10)(A)(ii)(IX) and subsection (l)(1) until the end of the stay for which the inpatient services are furnished.".

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(e) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(17) of such Act (42 U.S.C. 1396(a)(17)) is amended by inserting "except as provided in subsection (l)(3)," after "(17)".

(2) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(a)(10)(A)(ii)(IX) or" after "as medical assistance".

42 USC 1396a note.

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished in calendar quarters beginning on or after April 1, 1987.

(2)(A) Subparagraph (C) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(B) Subparagraph (D) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1988.

(C) Subparagraph (E) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(D) Subparagraph (F) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1990.

(3) An amendment made by this section shall become effective as provided in paragraph (1) or (2) without regard to whether or not final regulations to carry out such amendment have been promulgated by the applicable date.

SEC. 9402. OPTIONAL COVERAGE OF ELDERLY AND DISABLED POOR FOR ALL MEDICAID BENEFITS.

(a) CREATION OF NEW OPTIONAL CATEGORICALLY NEEDY GROUPS.—

(1) IN GENERAL.—Subsection (a)(10)(A)(ii) of section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 9401(a) of this subtitle, is amended—

(A) by striking "or" at the end of subclause (VIII),

(B) by striking the semicolon at the end of subclause (IX) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(X) subject to subsection (m)(3), who are described in subsection (m)(1);".

(2) DESCRIPTION OF INDIVIDUALS.—Section 1902 of such Act is further amended by adding after subsection (l), as added by section 9401(b) of this subtitle, the following new subsection:

"(m)(1) Individuals described in this paragraph are individuals—

"(A) who are 65 years of age or older or are disabled individuals (as determined under section 1614(a)(3)), 42 USC 1382c.

State and local governments. 42 USC 1382a.

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed an income level established by the State consistent with paragraph (2)(A), and

42 USC 1382b.

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed (except as provided in paragraph (2)(B)) the maximum amount of resources that an individual may have and obtain benefits under that program.

"(2)(A) The income level established under paragraph (1)(B) may not exceed a percentage (not more than 100 percent) of the nonfarm official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

42 USC 9902.

"(B) In the case of a State that provides medical assistance to individuals not described in subsection (a)(10)(A) and at the State's option, the State may use under paragraph (1)(C) such resource level (which is higher than the level described in that paragraph) as may be applicable with respect to individuals described in paragraph (1)(A) who are not described in subsection (a)(10)(A).".

State and local governments.

(b) Requirement of Coverage of Certain Pregnant Women and Children and Other Special Rules.—Section 1902(m) of such Act, as added by subsection (a)(2), is further amended by adding at the end the following new paragraphs:

42 USC 1396a.

"(3) A State plan may not provide coverage for individuals under subsection (a)(10)(A)(ii)(X), unless the plan provides coverage of some or all of the individuals described in subsection (l)(1).

State and local governments.

"(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(X)—

"(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

42 USC 1382a.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(c) Effective Date.—The amendments made by this section shall apply to payments to States for calendar quarters beginning on or after July 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

State and local governments.
42 USC 1396a note.

SEC. 9403. OPTIONAL COVERAGE OF POOR MEDICARE BENEFICIARIES FOR MEDICARE COST-SHARING EXPENSES.

(a) Eligibility of Qualified Medicare Beneficiary.—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 139a(a)(10)) is amended—

42 USC 1396a.

(1) by striking "and" at the end of subparagraph (C),

(2) by inserting "and" at the end of subparagraph (D), and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) at the option of a State, but subject to subsection (m)(3), for making medical assistance available for medicare cost-sharing (as defined in section 1905(p)(3)) for qualified medicare beneficiaries described in section 1905(p)(1);"

State and local governments.
42 USC 1396d.

(b) Qualified Medicare Beneficiary Defined.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(p)(1) The term 'qualified medicare beneficiary' means an individual—

"(A) who is entitled to hospital insurance benefits under part A of title XVIII (including an individual entitled to such benefits pursuant to an enrollment under section 1818),

42 USC 1395c.
42 USC 1395i-2.

"(B) who, but for section 1902(a)(10)(E) and the election of the State, is not eligible for medical assistance under the plan,

"(C) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed an income level established by the State consistent with paragraph (2)(A), and

State and local governments.
42 USC 1382a.

42 USC 1382b.

"(D) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed (except as provided in paragraph (2)(B)) the maximum amount of resources that an individual may have and obtain benefits under that program.

42 USC 9902.

"(2)(A) The income level established under paragraph (1)(C) may not exceed a percentage (not more than 100 percent) of the nonfarm official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

State and local governments.

"(B) In the case of a State that provides medical assistance to individuals not described in section 1902(a)(10)(A) and at the State's option, the State may use under paragraph (1)(D) such resource level (which is higher than the level described in that paragraph) as may be applicable with respect to individuals described in paragraph (1)(A) who are not described in section 1902(a)(10)(A).".

42 USC 1396a.

(c) Limited, Medicare Gap-Filling Benefits.—Section 1902(a)(10) of such Act (42 U.S.C. 1395a(a)(10)), as amended by section 9401(c) of this subtitle and by subsection (a) of this section, is amended, in the matter after subparagraph (E)—

(1) by striking "and" before "(VII)", and

42 USC 1396d.

42 USC 1396o.

(2) by inserting before the semicolon at the end the following: ", and (VIII) the medical assistance made available to a qualified medicare beneficiary described in section 1905(p)(1) shall be limited to medical assistance for medicare cost-sharing (described in section 1905(p)(3)), subject to the provisions of subsection (n) and section 1916(b)".

(d) Medicare Cost-Sharing Defined.—Section 1905(p) of such Act, as added by subsection (b), is amended by adding at the end the following:

"(3) The term 'medicare cost-sharing' means the following costs incurred with respect to a qualified medicare beneficiary:

42 USC 1395i-2.

"(A) Premiums under part B and (if applicable) under section 1818.

42 USC 1395e.

"(B) Deductibles and coinsurance described in section 1813.

42 USC 1395*l*.

"(C) The annual deductible described in section 1833(b).

State and local governments.

"(D) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to '80 percent' therein were deemed a reference to '100 percent'.

42 USC 1395mm.

Such term also may include, at the option of a State, premiums for enrollment of a qualified medicare beneficiary with an eligible organization under section 1876.".

(e) Payment Amounts.—Section 1902 of such Act, as amended by sections 9401(b) and 9402(a)(2) of this subtitle, is further amended by adding at the end the following new subsection:

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State and local governments.

42 USC 1395.

"(n) In the case of medical assistance furnished under this title for medicare cost-sharing respecting the furnishing of a service or item to a qualified medicare beneficiary, the State plan may provide payment in an amount with respect to the service or item that results in the sum of such payment amount and any amount of payment made under title XVIII with respect to the service or item exceeding the amount that is otherwise payable under the State plan for the item or service for eligible individuals who are not qualified medicare beneficiaries.".

42 USC 1396a.

(f) Requirement of Coverage of Certain Pregnant Women and Children and Other Special Rules.—

(1) Requiring coverage of certain pregnant women and children and income standard to be used.—Section 1902(m) of such Act, as added by section 9402(a)(2) of this subtitle, and as amended by section 9402(b) of this subtitle, is amended—

(A) in paragraph (3), by inserting "or coverage under subsection (a)(10)(E)" after "subsection (a)(10)(A)(ii)(IX)", and

(B) by adding at the end the following new paragraph:

"(5) Notwithstanding subsection (a)(17), for qualified medicare beneficiaries described in section 1905(p)(1)— 42 USC 1396d.

"(A) the income standard to be applied is the income standard described in section 1905(p)(1)(C), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income. 42 USC 1382a.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.".

(2) EFFECTIVE DATE OF BENEFITS.—Section 1902(e) of such Act, as amended by section 9401(d) of this subtitle, is amended by adding at the end the following new paragraph:

"(8) If an individual is determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1)), such determination shall apply to services furnished after the end of the month in which the determination first occurs. For purposes of payment to a State under section 1903(a), such determination shall be considered to be valid for an individual for a period of 12 months, except that a State may provide for such determinations more frequently, but not more frequently than once every 6 months for an individual.". State and local governments. 42 USC 1396b.

(g) CONFORMING AMENDMENTS.—

(1) TREATMENT OF BENEFITS.—Section 1902(a)(10)(C) of such Act (42 U.S.C. 1396a(a)(10)(C)) is amended, in the matter before clause (i), by inserting "or (E)" after "subparagraph (A)".

(2) PAYMENT OF MEDICARE PREMIUMS AND PART A DEDUCTIBLE.—Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended—

(A) by inserting "deductible amounts under part A and" after "(including expenditures for",

(B) by inserting "(and, in the case of qualified medicare beneficiaries described in section 1905(p)(1), part A)" after "premiums under part B", and

(C) by striking "or (B)" and inserting "(B) are qualified medicare beneficiaries described in section 1905(p)(1), or (C)".

(3) TIMING OF BENEFITS.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter before subdivision (i), by inserting "or, in the case of a qualified medicare beneficiary described in subsection (p)(1), if provided after the month in which the individual becomes such a beneficiary" after "makes application for assistance".

(4) COPAYMENTS.—

(A) Section 1902(a)(15) of such Act (42 U.S.C. 1396a(a)(15)) is amended by inserting "are not qualified medicare beneficiaries (as defined in section 1905(p)(1)) but" after "older who".

(B) Subsections (a) and (b) of section 1916 of such Act (42 U.S.C. 1396o) are each amended by striking "section 1902(a)(10)(A)" and inserting "subparagraph (A) or (E) of section 1902(a)(10)".

(h) EFFECTIVE DATE.—The amendments made by this section apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. 42 USC 1396a note. 42 USC 1396.

SEC. 9404. MEDICAID ELIGIBILITY FOR QUALIFIED SEVERELY IMPAIRED INDIVIDUALS.

(a) AS CATEGORICALLY NEEDY.—Section 1902(a)(10)(A)(i)(II) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)(II)) is amended by inserting "or who are qualified severely impaired individuals (as defined in section 1905(q))" after "title XVI".

(b) Description of Qualified Severely Impaired Individuals.—Section 1905 of such Act (42 U.S.C. 1396d), as amended by section 9403(b) of this subtitle, is amended by adding at the end the following new subsection:

"(q) The term 'qualified severely impaired individual' means an individual under age 65—

"(1) who for the month preceding the first month to which this subsection applies to such individual—

"(A) received (i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability, (ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis, (iii) a payment of monthly benefits under section 1619(a), or (iv) a supplementary payment under section 1616(c)(3), and

42 USC 1382.
42 USC 1382e.
42 USC 1382 note.
42 USC 1382h.

State and local governments.

"(B) was eligible for medical assistance under the State plan approved under this title; and

"(2) with respect to whom the Secretary determines that—

"(A) the individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under title XVI,

42 USC 1381.

"(B) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments),

100 STAT. 2057

"(C) the lack of eligibility for benefits under this title would seriously inhibit his ability to continue or obtain employment, and

State and local governments.
42 USC 1381.

"(D) the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under title XVI (including any federally administered State supplementary payments), this title, and publicly funded attendant care services (including personal care assistance) that would be available to him in the absence of such earnings.

42 USC 1382h.

In the case of an individual who is eligible for medical assistance pursuant to section 1619(b) in June, 1987, the individual shall be a qualified severely impaired individual for so long as such individual meets the requirements of paragraph (2).".

42 USC 1396a note.
42 USC 1396.

(c) Effective Date.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1987, without regard to whether regulations to implement such amendments are promulgated by such date.

State and local governments.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 9405. CLARIFICATION OF ELIGIBILITY OF HOMELESS INDIVIDUALS.

Section 1902(b)(2) of the Social Security Act (42 U.S.C. 1396a(b)(2)) is amended by inserting before the semicolon the following: ", regardless of whether or not the residence is maintained permanently or at a fixed address".

SEC. 9406. PAYMENT FOR ALIENS UNDER MEDICAID.

(a) In General.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end thereof the following new subsection:

"(v)(1) Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. State and local governments.

"(2) Payment shall be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien, and

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment). 42 USC 601. 42 USC 1381.

100 STAT. 2058

"(3) For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.".

(b) Conforming Amendment.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (10)(B) or any other provision of this subsection, a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v).". State and local governments.

(c) Effective Date.— 42 USC 1396a note.

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished to aliens on or after January 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made in subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. 42 USC 1396.

SEC. 9407. OPTIONAL PRESUMPTIVE ELIGIBILITY PERIOD FOR PREGNANT WOMEN.

(a) State Option.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following:

"(47) at the option of the State, provide for making ambulatory prenatal care available to pregnant women during a presumptive eligibility period in accordance with section 1920.".

(b) PRESUMPTIVE ELIGIBILITY.—Title XIX of the Social Security Act is amended by redesignating section 1920 as section 1921 and inserting after section 1919 the following new section: 42 USC 1396s.

"PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN

42 USC 1396r-1. "SEC. 1920. (a) A State plan approved under section 1902 may provide for making ambulatory prenatal care available to a pregnant woman during a presumptive eligibility period.

"(b) For purposes of this section—

"(1) the term 'presumptive eligibility period' means, with respect to a pregnant woman, the period that— 100 STAT. 2059

"(A) begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income of the woman does not exceed the applicable income level of eligibility under the State plan, and

"(B) ends with (and includes) the earlier of—

"(i) the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State plan,

"(ii) the day that is 45 days after the date on which the provider makes the determination referred to in subparagraph (A), or

"(iii) in the case of a woman who does not file an application for medical assistance within 14 calendar days after the date on which the provider makes the determination referred to in subparagraph (A), the fourteenth calendar day after such determination is made; and

"(2) the term 'qualified provider' means any provider that—

"(A) is eligible for payments under a State plan approved under this title,

"(B) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9), 42 USC 1396d.

"(C) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A), and

"(D)(i) receives funds under—

"(I) section 329 or section 330 of the Public Health Service Act, or 42 USC 254b, 254e.

"(II) title V of this Act; 42 USC 701.

"(ii) participates in a program established under—

"(I) section 17 of the Child Nutrition Act of 1966, or 42 USC 1786.

"(II) section 4(a) of the Agriculture and Consumer Protection Act of 1973; or 42 USC 1446a.

"(iii) participates in a State perinatal program.

"(c)(1) The State agency shall provide qualified providers with—

"(A) such forms as are necessary for a pregnant woman to make application for medical assistance under the State plan, and

"(B) information on how to assist such women in completing and filing such forms.

"(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall—

"(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

"(B) inform the woman at the time the determination is made that she is required to make application for medical assistance under the State plan within 14 calendar days after the date on which the determination is made.

"(3) A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State plan shall make application for medical assistance under such plan within 14 calendar days after the date on which the determination is made.

100 STAT. 2060

"(d) Notwithstanding any other provision of this title, ambulatory prenatal care that—

"(1) is furnished to a pregnant woman—

"(A) during a presumptive eligibility period,

"(B) by a qualified provider; and

"(2) is included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.".

42 USC 1396b.

(c) Conforming Change.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end the following:

"(v) In determining the amount of erroneous excess payments, there shall not be included any erroneous payments made for ambulatory prenatal care provided during a presumptive eligibility period (as defined in section 1920(b)(1)).".

Ante, p. 2058.

42 USC 1396a note.

(d) Effective Date.—The amendments made by this section shall apply to ambulatory prenatal care furnished in calendar quarters beginning on or after April 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9408. RESPIRATORY CARE SERVICES FOR VENTILATOR-DEPENDENT INDIVIDUALS.

(a) Required Services.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396b(e)), as amended by sections 9401(d) and 9403(f) of this subtitle, is further amended by adding at the end the following new paragraph:

42 USC 1396a.

State and local governments.

"(9)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

"(i) is medically dependent on a ventilator for life support at least six hours per day;

"(ii) has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient;

Hospitals.

"(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, skilled nursing facility, or intermediate care facility, and would be eligible to have payment made for such inpatient care under the State plan;

"(iv) has adequate social support services to be cared for at home; and

"(v) wishes to be cared for at home.

"(B) The requirements of subparagraph (A)(ii) may be satisfied by a continuous stay in one or more hospitals, skilled nursing facilities, or intermediate care facilities.

"(C) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.".

(b) Waiver of Comparability.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by sections 9401(c), 9403(a), and

100 STAT. 2061

9403(c) of this subtitle, is further amended, in the matter following subparagraph (E)—

(1) by striking "and" before "(VIII)"; and

(2) by inserting before the semicolon at the end thereof the following: ", and (IX) the making available of respiratory care services in accordance with subsection (e)(9) shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(9)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection".

(c) CONFORMING CHANGES.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1395d(a)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is further amended— *Ante*, p. 2931.

(A) by striking "and" at the end of paragraph (19),

(B) by redesignating paragraph (20) as paragraph (21), and

(C) by inserting after paragraph (19) the following new paragraph:

"(20) respiratory care services (as defined in section 1902(e)(9)(C)); and". *Ante*, p. 2060.

(2) Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is amended by striking "(20)" and inserting in lieu thereof "(21)".

(3) Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is amended by striking "through (19)" and inserting in lieu thereof "through (20)".

42 USC 1396a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

PART 2—PROVISION OF SERVICES UNDER WAIVER AUTHORITY

SEC. 9411. PERMITTING STATES TO OFFER HOME AND COMMUNITY-BASED SERVICES TO CERTAIN LOW-INCOME INDIVIDUALS.

Hospitals.

(a) WAIVER AUTHORITY.—

(1) Section 1915(c)(1) of the Social Security Act (42 U.S.C. 1396n(c)(1)) is amended—

(A) by inserting "a hospital or" after "level of care provided in", and

(B) by striking out all beginning with "or but for" through "State plan" the third place it appears.

(2) Section 1915(c)(2)(B) of such Act is amended—

(A) in clause (i) by striking "skilled nursing facility or" and inserting in lieu thereof "inpatient hospital, skilled nursing facility, or", and

(B) in the matter following clause (iii) by inserting "inpatient hospital," after "need for".

(3) Section 1915(c)(7) of such Act is amended to read as follows:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with a particular illness or condition who are inpatients in hospitals or in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure that would have been made in a fiscal year for those individuals under the State plan separately from the expenditures for other individuals who are inpatients of those respective facilities.".

100 STAT. 2062

State and local governments. Acquired immune deficiency syndrome. 42 USC 1396n.

(b) PROVIDING CASE MANAGEMENT SERVICES TO PATIENTS WITH CERTAIN CONDITIONS.—Section 1915(g)(1) of such Act is amended by adding at the end the following: "A State may limit the provision of case management services under this subsection to individuals with acquired immune deficiency syndrome (AIDS), or with AIDS-related conditions, or with either, and a State may limit the provision of case management services under this subsection to individuals with chronic mental illness.".

(c) WAIVER OF COMPARABILITY REQUIREMENT.—The first sentence of section 1915(c)(3) of such Act is amended by striking all that follows "statewideness)" and inserting "and section 1902(a)(10)(B) (relating to comparability).".

Ante, pp. 203, 204.
42 USC 1396a.

(d) PROVIDING CERTAIN OTHER SERVICES TO PATIENTS WITH CHRONIC MENTAL ILLNESS.—Section 1915(c)(4)(B) of such Act is amended by inserting before the period at the end the following: "and for day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to applications for waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

42 USC 1396n note.

SEC. 9412. WAIVER AUTHORITY FOR CHRONICALLY MENTALLY ILL AND FRAIL ELDERLY.

(a) CHRONICALLY MENTALLY ILL DEMONSTRATION PROGRAM.—

(1) The Secretary of Health and Human Services may, in accordance with this subsection, waive certain provisions of title XIX of the Social Security Act in order to allow States to implement demonstration programs to improve the continuity, quality, and cost-effectiveness of mental health services available to chronically mentally ill medicaid beneficiaries.

State and local governments.
42 USC 1396.

(2) A waiver shall be granted under this subsection with respect to a demonstration program only if—

(A) the demonstration program has been awarded a grant from the Robert Wood Johnson Foundation and the Department of Housing and Urban Development under their "Program for the Chronically Mentally Ill",

Grants.

(B) the State provides assurances satisfactory to the Secretary that under such waiver—

(i) the average per capita expenditure estimated by the State in any fiscal year for medical assistance for mental health services provided with respect to individuals covered under the program does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such services for such individuals if the waiver had not been granted, and

(ii) there will be no reduction or limitation in benefits to a medicaid beneficiary under the program.

(3) The authority under this subsection extends only to the following, as they relate to the provision of mental health services:

(A) A waiver of the requirements of sections 1902(a)(1), 1902(a)(10)(B), 1902(a)(23), and 1902(a)(30) and clauses (i) and (ii) of section 1903(m)(2) of the Social Security Act.

42 USC 1396a, 1396b.

(B) Including as "medical assistance" under the State plan case management services with respect to mentally ill patients, habilitation services (as defined in section 1915(c)(5) of such Act), day treatment or other partial hospitalization services, residential services (other than room and board), psychosocial rehabilitation services, clinic services (whether or not furnished in a facility), and such other services as the State may request and the Secretary may approve for individuals covered under the demonstration project.

42 USC 1396n.

(4)(A) A waiver under this subsection shall be for an initial term of three years which may be extended for an additional two-year term. The request of a State for extension of such a waiver shall be deemed granted unless the Secretary denies such request in writing within 90 days after the date of its submission to the Secretary.

(B) The authority to approve a waiver under this subsection extends only during the five-year period beginning on October 1, 1986.

(5) Subsections (c)(6) and (e)(1) of section 1915 of the Social Security Act shall apply to a waiver under this subsection in the same manner as they apply to a waiver under that section.

Reports.

(6) The Secretary shall report, not later than January 1, 1993, to Congress on the cost, accessibility, utilization, and quality of services provided under waivers granted under this subsection.

(b) FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.—

42 USC 1395, 1396.

(1) The Secretary of Health and Human Services shall grant waivers of certain requirements of titles XVIII and XIX of the Social Security Act to not more than 10 public or nonprofit private community-based organizations to enable such organizations to provide comprehensive health care services on a capitated basis to frail elderly patients at risk of institutionalization.

42 USC 1395b-1 notes.
Ante, p. 183.
Grants.

(2)(A) Except as provided in subparagraph (B), the terms and conditions of a waiver granted pursuant to this subsection shall be substantially the same as the terms and conditions of the On Lok waiver (referred to in section 603(c) of the Social Security Amendments of 1983 and extended by section 9220 of the Consolidated Omnibus Budget Reconciliation Act of 1985).

(B) In order to receive a waiver under this subsection, an organization must be awarded a grant from the Robert Wood Johnson Foundation.

(C) Subject to subparagraph (B), any waiver granted pursuant to this subsection shall be for an initial period of 3 years. The Secretary may extend such waiver beyond such initial period for so long as the Secretary finds that the organization complies with the terms and conditions described in subparagraphs (A) and (B).

100 STAT. 2064

SEC. 9413. CONTINUATION OF "CASE-MANAGED MEDICAL CARE FOR NURSING HOME PATIENTS" DEMONSTRATION PROJECT.

Massachusetts.
42 USC 1395, 1396.
42 USC 1315.

(a) APPROVAL OF APPLICATION.—The Secretary of Health and Human Services shall approve any application for a waiver of any requirement of title XVIII or XIX of the Social Security Act necessary to provide for continuation, from July 1, 1987, through June 30, 1989, of the "Case-Managed Medical Care for Nursing Home Patients" demonstration project (#95-P-98346/1-01) carried out pursuant to section 222 of the Social Security Amendments of 1972, section 402 of the Social Security Amendments of 1967, and section 1115 of the Social Security Act by the Department of Public Welfare, Commonwealth of Massachusetts.

(b) TERMS AND CONDITIONS.—The Secretary's approval of an application (or renewal of an application) under subsection (a) shall be on the same terms and conditions as applied to the demonstration project on July 1, 1986.

SEC. 9414. NEW JERSEY RESPITE CARE PILOT PROJECT.

Disabled persons.
Aged persons.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with the State of New Jersey (in this section referred to as the "State") for the purpose of conducting a pilot project (in this section referred to as the "project") under title XIX of the Social Security Act for providing respite care services for elderly and disabled individuals in order to determine the extent to which—

(1) the provision of necessary respite care services to individuals at risk of institutionalization will delay or avert the need for institutional care, and

(2) respite care services enhance and sustain the role of the family in providing long-term care services for elderly and disabled individuals at risk of institutionalization.

(b) CONDITIONS.—The agreement with the Secretary under this section shall—

Contracts.

(1) provide that the project shall be administered by a State health services agency designated for such purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act),

State and local governments.

42 USC 1396.

(2) provide that if the project imposes any cost sharing requirements on participants who are eligible for benefits under title XIX of the Social Security Act, such requirements shall be imposed only in accordance with the provisions of section 1916 of such Act,

42 USC 1396o.

(3) provide for a system of review to assure that respite care services are provided only to individuals reasonably determined to be in need of such services, and

(4) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(c) DEFINITION.—For purposes of this section, the term "respite care services" shall include—

(1) short-term and intermittent—

(A) companion or sitter services (paid as well as volunteer),

(B) homemaker and personal-care services,

(C) adult day care, and

(D) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual); and

100 STAT. 2065

(2) peer support and training for family caregivers (using informal support groups and organized counseling).

(d) PAYMENTS.—The agreement under this section shall be entered into between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as in additional payment under section 1903 of the Social Security Act for each quarter, an amount equal to 50 percent of the reasonable costs incurred by such State during such quarter in providing respite care services under the project for elderly and disabled individuals who are eligible for medical assistance under the State plan approved under title XIX of such Act (or who would be eligible if coverage under such plan was as broad as allowed under Federal law). The Federal payment shall not exceed $1,000,000 for fiscal year 1987, and $2,000,000 for each of the fiscal years 1988, 1989, and 1990. No payments shall be made pursuant to this section for any fiscal year beginning after September 30, 1990.

Contracts.
State and local governments.
Aged persons.
Disabled persons.
42 USC 1396b.

42 USC 1396.

(e) DURATION.—The project under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for final evaluation and reporting.

Reports.

(f) REPORTS.—The State shall arrange for an independent evaluation of the project and shall transmit the evaluation to the Secretary not more than six months after the conclusion of project.

(g) PROVISIONS SUBJECT TO WAIVER.—At the request of the State, the Secretary shall waive the following provisions of title XIX of the Social Security Act as they relate to the pilot project: section 1902(a)(1), section 1902(a)(10)(B), section 1902(a)(13), and section 1902(a)(30). The Secretary may not waive any other provision of such title with respect to the pilot project.

42 USC 1396a.

SEC. 9415. INAPPLICABILITY OF PAPERWORK REDUCTION ACT.

Notwithstanding any other provision of law, chapter 35 of title 44, United States Code, shall not apply to information required to carry out any provision of this part or the amendments made by this part.

44 USC 3501 *et seq.*

PART 3—PAYMENTS

SEC. 9421. HOLDING STATES HARMLESS IN FISCAL YEAR 1987 AGAINST A DECREASE IN THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE.

42 USC 1301 note.
Ante, p. 1972.

(a) In General.—Section 9528 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end the following new subsection:

42 USC 1396b.

"(c) Hold Harmless Provision.—Notwithstanding subsection (b), for calendar quarters occurring during fiscal year 1987 and only for purposes of making payment to a State under section 1903 of the Social Security Act, the amendments made by subsection (a) shall not apply to a State if the effect of the applying the amendments would be to reduce the amount of payment made to the State under that section.".

42 USC 1301 note.
Ante, p. 82.

(b) Effective Date.—The amendment made by subsection (a) shall be effective as though it had been included in the Consolidated Omnibus Budget Reconciliation Act of 1985 at the time of its enactment.

SEC. 9422. WAIVER OF CERTAIN REQUIREMENTS.

South Carolina.
42 USC 1396a, 1396d.
42 USC 1396.
42 USC 1396a.
Women.
State and local governments.

Notwithstanding the three-month limitation set forth in sections 1902(a)(34) and 1905(a) of the Social Security Act, payment may be made under title XIX of such Act with respect to care and services provided by the Medical University of South Carolina, after September 30, 1984, and before July 1, 1985, to individuals—

(1) who are not described in section 1902(a)(10)(A) of such Act,

(2) who, upon application, would have been eligible as individuals under the age of 18 or pregnant women, for medical assistance under the State plan approved under such title at the time such care and services were provided, and

(3) who, not later than six months after the date of the enactment of this Act, are determined by the State agency administering or supervising the administration of such plan to have been so eligible.

PART 4—OTHER QUALITY AND EFFICIENCY MEASURES

SEC. 9431. INDEPENDENT QUALITY REVIEW OF HMO SERVICES.

(a) In General.—Section 1902(a)(30) of the Social Security Act (42 U.S.C. 1396a(a)(30)) is amended—

(1) by inserting "and" at the end of subparagraph (B), and

(2) by adding at the end the following new subparagraph:

Contracts.
State and local governments.
42 USC 1320c.
42 USC 1396b.

"(C) provide a utilization and quality control peer review organization (under part B of title XI) or a private accreditation body to conduct (on an annual basis) an independent, external review of the quality of services furnished under each contract under section 1903(m), with the results of such review made available to the State and, upon request, to the Secretary, the Inspector General in the Department of Health and Human Services, and the Comptroller General;".

(b) Conforming Amendments.—(1) Section 1902(d) of such Act (42 U.S.C. 1396a(d)) is amended by inserting "(including quality review functions described in subsection (a)(30)(C))" after "medical or utilization review functions".

(2) Section 1903(a)(3)(C) of such Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or quality review" after "medical and utilization review".

42 USC 1396a note.

(c) Effective Date.—The amendments made by this section apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9432. STATE UTILIZATION REVIEW SYSTEMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") may not, during the period beginning with the date of the enactment of this Act and ending with the date that is 180 days after the day on which the report required by subsection (b) is submitted to the Congress, publish final or interim final regulations requiring a State plan approved under title XIX of the Social Security Act to include a program requiring second surgical opinions or a program of inpatient hospital preadmission review.

Hospitals.
42 USC 1396a note.

42 USC 1396.

(b) REPORT.—

(1) The Secretary shall report to Congress, by not later than October 1, 1988, for each State in a representative sample of States—

(A) the identity of those procedures which are high volume or high cost procedures among patients who are covered under the State medicaid plan,

(B) the payment rates under those plans for such procedures, and the aggregate annual payment amounts made under such plans for such procedures (including the Federal share of such payment amounts),

(C) the rate at which each such procedure is performed on medicaid patients and (to the extent that data are available) comparisons to the rate at which such procedure is performed on patients of comparable age who are not medicaid patients,

(D) with respect to each such procedure—

(i) the number of board certified or board eligible physicians in the State who provide care and services to medicaid patients and who perform the procedure, and

Physicians.

(ii) in the case of a State with a mandatory second surgical opinion program in operation, the number of physicians described in clause (i) who provide second opinions (of the type described in section 1164 of the Social Security Act) for the procedure at prevailing payment rates under the State medicaid plan, and

Ante, p. 196.

(E) in the case of a State with a mandatory second surgical opinion program or a program of inpatient hospital preadmission review in operation, a description of—

Hospitals.

(i) the extent to which such program impedes access to necessary care and services, and

(ii) the measures that the State has taken to address such impediments, particularly in rural areas.

Rural areas.

(2) Such report shall also include a list of those surgical procedures which the Secretary believes meet the following criteria and for which a mandatory second opinion program under medicaid plans may be appropriate:

(A) The procedure is one which generally can be postponed without undue risk to the patient.

(B) The procedure is a high volume procedure among patients who are covered under State medicaid plans or is a high cost procedure.

(C) The procedure has a comparatively high rate of nonconfirmation upon examination by another qualified physician, there is substantial geographic variation in the rates of performance of the procedure, or there are other reasons why requiring second opinions for 100 percent of such procedures would be cost effective.

Physicians.

(3) The representative sample of States required to be included in the report shall include States with mandatory second surgical opinion programs in operation, States with programs of inpatient hospital preadmission review in operation, and States with neither such program in operation.

Hospitals.

42 USC 1396.

(4) In this subsection, the term "medicaid plan" means a State plan approved under title XIX of the Social Security Act.

(c) STUDY.—

(1) The Secretary shall conduct a study of the utilization of selected medical treatments and surgical procedures by medicaid beneficiaries in order to assess the appropriateness, necessity, and effectiveness of such treatments and procedures.

(2) The study shall analyze the extent to which there is significant variation in the rate of utilization by medicaid beneficiaries of selected treatments and procedures for different geographic areas within States and among States.

(3) The study shall also identify underutilized, medically necessary treatments and procedures for which—

(A) a failure to furnish could have an adverse effect on health status, and

(B) the rate of utilization by medicaid beneficiaries is significantly less than the rate for comparable, age-adjusted populations.

Research and development.

Ante, p. 2006.

(4) The study shall be coordinated, to the extent practicable, with the research program established pursuant to section 1875(c) of the Social Security Act, with particular regard to the relationship of the variations described in paragraph (2) to patient outcomes.

(5) The Secretary shall report the results of the study to the Congress not later than January 1, 1990.

SEC. 9433. CLARIFICATION OF FLEXIBILITY FOR STATE MEDICAID PAYMENT SYSTEMS FOR INPATIENT SERVICES.

42 USC 1396a.

(a) IN GENERAL.—Section 2173 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 809) is amended by adding at the end the following new subsection:

42 USC 1396a.

"(d) Section 1902 of such Act is further amended by inserting before subsection (i) the following new subsection:

Hospitals. Disadvantaged persons.

" '(h) Nothing in this title (including subsections (a)(13) and (a)(30) of this section) shall be construed as authorizing the Secretary to limit the amount of payment adjustments that may be made under a plan under this title with respect to hospitals that serve a disproportionate number of low-income patients with special needs.' ".

42 USC 1396a note.

95 Stat. 357.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as though it was included in the enactment of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

SEC. 9434. FINANCIAL DISCLOSURE REQUIREMENTS FOR HMOS; CIVIL MONEY PENALTIES.

(a) DISCLOSURE OF INTERLOCKING RELATIONSHIPS.—

(1) Section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended—

(A) in paragraph (2)(A)—

(i) by striking "and" at the end of clause (vi),

(ii) by striking the period at the end of clause (vii) and inserting ", and", and

(iii) by adding after clause (vii) the following new clause:

Contracts.

42 USC 1320a-3.

"(viii) such contract provides for disclosure of information in accordance with section 1124 and paragraph (4) of this subsection."; and

(B) by adding at the end the following new paragraph:

Reports.

42 USC 300e-9.

42 USC 300e-17.

"(4)(A) Each health maintenance organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

Gifts and property.

100 STAT. 2069

"(i) Any sale or exchange, or leasing of any property between the organization and such a party.

"(ii) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

"(iii) Any lending of money or other extension of credit between the organization and such a party.

State and local governments.

The State or Secretary may require that information reported respecting an organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

"(B) Each organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.".

Contracts.

(2) Section 1903(m)(2)(A)(iii) of the Social Security Act (42 U.S.C. 1396b(m)(2)(A)(iii)) is amended by inserting before the semicolon the following: "and under which the Secretary must provide prior approval for contracts providing for expenditures in excess of $100,000".

Effective date. Contracts. 42 USC 1396b note.

(3)(A) The amendments made by paragraph (1) shall take effect 6 months after the date of the enactment of this Act.

(B) The amendment made by paragraph (2) shall take effect on the date of the enactment of this Act and shall apply to contracts entered into, renewed, or extended after the end of the 30-day period beginning on the date of the enactment of this Act.

(b) Civil Money Penalties.—Section 1903(m) of the Social Security Act, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

Contracts.

"(5)(A) Any entity with a contract under this subsection that fails substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under such contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals, is subject to a civil money penalty of not more than $10,000 for each such failure.

Ante, pp. 2003, 2008.

"(B) The provisions of section 1128A (other than subsection (a)) shall apply to a civil money penalty under subparagraph (A) in the same manner as they apply to a civil money penalty under that section.".

SEC. 9435. COBRA TECHNICAL CORRECTIONS AND CLARIFICATIONS RELATING TO THE MEDICAID PROGRAM.

42 USC 1396n note. *Ante*, p. 202.

(a) Maintenance Income Standards.—Section 9502(j)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "on or after" and inserting in lieu thereof "before, on, or after".

(b) Hospice Care for Dual Eligibles.—

42 USC 1396a. *Ante*, pp. 208, 211.

(1) Section 1902(a)(13)(D) of the Social Security Act, as amended by sections 9505(c)(1) and 9509(a)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by inserting before the first semicolon the following: "and for payment of amounts under section 1905(o)(3)".

42 USC 1396d.

100 STAT. 2070

Ante, p. 208.

(2) Section 1905(o) of the Social Security Act, as amended by section 9505(a)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by adding at the end the following new paragraph:

State and local governments.

"(3) In the case of a State which elects not to provide medical assistance for hospice care, but provides medical assistance for skilled nursing or intermediate care facility services with respect to an individual—

"(A) who is residing in a skilled nursing or intermediate care facility and is receiving medical assistance for services in such facility under the plan,

42 USC 1395c.
42 USC 1395d.

"(B) who is entitled to benefits under part A of title XVIII and has elected, under section 1812(d), to receive hospice care under such part, and

"(C) with respect to whom the hospice program under such title and the skilled nursing or intermediate care facility have entered into a written agreement under which the program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual,

42 USC 1396a.
42 USC 1395e.

instead of any payment otherwise made under the plan with respect to the facility's services, the State shall provide for payment to the hospice program of an amount equal to the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13), and, if the individual is an individual described in section 1902(a)(10)(A), shall provide for payment of any coinsurance amounts imposed under section 1813(a)(4). For purposes of this paragraph and section 1902(a)(13)(D), the term 'room and board' includes performance of personal care services, including assistance in activities of daily living, in socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervising and assisting in the use of durable medical equipment and prescribed therapies.".

42 USC 1396a note.
Ante, p. 210.

(c) MEDICAID QUALIFYING TRUSTS.—Section 9506 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by adding at the end the following new subsection:

Handicapped persons.

"(c) EXCEPTION.—The amendment made by subsection (a) shall not apply to any trust or initial trust decree established prior to April 7, 1986, solely for the benefit of a mentally retarded individual who resides in an intermediate care facility for the mentally retarded.".

(d) EFFECTIVE DATES.—

Ante, pp. 208, 210.

(1) Sections 9505(e) and 9508(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 are each amended by inserting before the period at the end the following: ", without regard to whether or not regulations to carry out the amendments have been promulgated by that date".

Ante, p. 212.

(2) Sections 9510(b) and 9511(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 are each amended by inserting before the period at the end the following: ", without regard to whether or not regulations to carry out the amendment have been promulgated by that date".

42 USC 1396b note.
Ante, p. 2931.

(e) HEALTH INSURING ORGANIZATIONS.—Section 9517(c)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 1895(c)(4) of the Tax Reform Act of 1986, is amended by adding at the end the following new subparagraph:

100 STAT. 2071

State and local governments.
42 USC 1396b.

"(D) Nothing in section 1903(m)(1)(A) of the Social Security Act shall be construed as requiring a health-insuring organization to be organized under the health maintenance organization laws of a State.".

42 USC 1396a note.
Ante, p. 82.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 9436. PAYMENT FOR CERTAIN LONG-TERM CARE PATIENTS IN HOSPITALS.

State and local governments.
42 USC 1395b–1.
42 USC 1395, 1396.
42 USC 1396a.

(a) IN GENERAL.—In the case of a State which received a waiver under the authority of section 402(b) of the Social Security Amendments of 1967 with respect to payment methodology for inpatient hospital services under title XVIII and XIX of the Social Security Act during the 3-year period beginning January 1, 1983, notwithstanding section 1902(a)(13) of such Act, the State may pay under title XIX of such Act for hospital patients receiving services at an inappropriate level of care at the rate for hospital patients receiving an appropriate level of care if the Secretary of Health and Human Services determines that a sufficient number of hospital beds have been decertified in the State to reduce the payments to hospitals under such title in the State by amount equal to or greater than the amount by which payments to hospitals under such title in such State will increase as a result of the payment of such higher rates for patients receiving inappropriate levels of care.

(b) EFFECTIVE PERIOD.—Subsection (a) shall apply to payments for services furnished during the 3-year period beginning January 1, 1986, after the date the Secretary makes the determination described in that subsection.

PART 5—MATERNAL AND CHILD HEALTH

SEC. 9441. AUTHORIZATION AND ALLOTMENT OF ADDITIONAL FUNDS.

(a) ADDITIONAL FUNDS.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking "$478,000,000 for fiscal year 1984" and inserting "$553,000,000 for fiscal year 1987, $557,000,000 for fiscal year 1988, and $561,000,000 for fiscal year 1989".

(b) ALLOTMENT OF ADDITIONAL APPROPRIATIONS.—Section 502 of such Act (42 U.S.C. 702) is amended—

(1) in subsection (a)(1) by striking "amount appropriated under section 501(a)" and inserting in lieu thereof "amounts appropriated under section 501(a) for a fiscal year that are not in excess of $478,000,000";

(2) in subsection (b)—

(A) by inserting "that are not in excess of $478,000,000" after "fiscal year" the first place it appears, and

(B) by striking paragraph (3); and

(3) by adding at the end the following new subsections:

Grants.
Contracts.

"(c)(1) Of the amounts appropriated for a fiscal year in excess of $478,000,000, an amount equal to 7 percent for fiscal year 1987, 8 percent for fiscal year 1988, and 9 percent for fiscal year 1989 shall be retained by the Secretary for the purpose of carrying out (through grants, contracts, or otherwise) projects for the screening of newborns for sickle-cell anemia and other genetic disorders. The provisions of paragraph (3) of subsection (a) shall apply to projects authorized by this paragraph to the same extent as such provisions apply to projects authorized under such subsection.

100 STAT. 2072

"(2)(A) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 33⅓ percent shall be retained and allotted in the same manner as the amounts retained and allotted under subsections (a) and (b).

Research and development.

"(B) The amounts retained by the Secretary under this paragraph shall be used for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional or national significance, training, and research to promote access to primary health services for children and community-based service networks and case management services for children with special health care needs.

State and local governments.

"(C) The amounts allotted to the States under this paragraph shall be used to develop primary health services demonstration programs and projects for children and to promote the development of community-based service networks and case management services for children with special health care needs.

"(D) For purposes of this paragraph—

"(i) the term 'primary health services' includes—

"(I) any assessment, diagnosis, or treatment service provided on an outpatient basis that is designed to promote the health, to prevent the development of disease or disability, or to treat an illness or other health condition, of a child, and

"(II) any service designed to promote the access of children to high quality, continuous, and comprehensive primary health services, including case management;

"(ii) the term 'community-based service network for children with special health care needs' means a network of coordinated, high-quality services that is located in or near the home communities of children with special health care needs in order to improve the health status, functioning, and well-being of such children;

"(iii) the term 'case management services' means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children and their families; and

"(iv) the term 'comprehensive services' includes early identification and intervention services, diagnostic and evaluation services, treatment services, rehabilitation services, family support services, and special education services.

"(3) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 66⅔ percent shall be retained and allotted in the same manner and for the same purposes as the amounts retained and allotted under subsections (a) and (b).

State and local governments

42 USC 705.

"(d)(1) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

100 STAT. 2073

42 USC 706.

"(2) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

SEC. 9442. MATERNAL AND CHILD HEALTH AND ADOPTION CLEARINGHOUSE.

Grants.
Contracts.
42 USC 679a.

The Secretary of Health and Human Services shall establish, either directly or by grant or contract, a National Adoption Information Clearinghouse. The Clearinghouse shall—

(1) collect, compile, and maintain information obtained from available research, studies, and reports by public and private agencies, institutions, or individuals concerning all aspects of infant adoption and adoption of children with special needs;

Women.
Education.
State and local governments.

(2) compile, maintain, and periodically revise directories of information concerning—

(A) crisis pregnancy centers,

(B) shelters and residences for pregnant women,

(C) training programs on adoption,

(D) educational programs on adoption,

(E) licensed adoption agencies,

(F) State laws relating to adoption,

(G) intercountry adoption, and

(H) any other information relating to adoption for pregnant women, infertile couples, adoptive parents, unmarried individuals who want to adopt children, individuals who have been adopted, birth parents who have placed a child for adoption, adoption agencies, social workers, counselors, or other individuals who work in the adoption field;

(3) disseminate the information compiled and maintained pursuant to paragraph (1) and the directories compiled and maintained pursuant to paragraph (2); and

(4) upon the establishment of an adoption and foster care data collection system pursuant to section 479 of the Social Security Act, disseminate the data and information made available through that system. *Infra.*

SEC. 9443. COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE.

Part E of title IV of the Social Security Act, as amended by section 1883(b)(10) of the Tax Reform Act of 1986, is further amended by adding at the end thereof the following new section:

"COLLECTION OF DATA RELATING TO ADOPTION AND FOSTER CARE

"SEC. 479. (a)(1) Not later than 90 days after the date of the enactment of this subsection, the Secretary shall establish an Advisory Committee on Adoption and Foster Care Information (in this section referred to as the 'Advisory Committee') to study the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States. 42 USC 679.

"(2) The study required by paragraph (1) shall—

"(A) identify the types of data necessary to—

"(i) assess (on a continuing basis) the incidence, characteristics, and status of adoption and foster care in the United States, and

"(ii) develop appropriate national policies with respect to adoption and foster care;

"(B) evaluate the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies;

"(C) assess the validity of various methods of collecting data with respect to adoption and foster care; and

"(D) evaluate the financial and administrative impact of implementing each such method.

"(3) Not later than October 1, 1987, the Advisory Committee shall submit to the Secretary and the Congress a report setting forth the results of the study required by paragraph (1) and evaluating and making recommendations with respect to the various methods of establishing, administering, and financing a system for the collection of data with respect to adoption and foster care in the United States. Reports.

"(4)(A) Subject to subparagraph (B), the membership and organization of the Advisory Committee shall be determined by the Secretary.

"(B) The membership of the Advisory Committee shall include representatives of— State and local governments.

"(i) private, nonprofit organizations with an interest in child welfare (including organizations that provide foster care and adoption services),

"(ii) organizations representing State and local governmental agencies with responsibility for foster care and adoption services,

"(iii) organizations representing State and local governmental agencies with responsibility for the collection of health and social statistics,

"(iv) organizations representing State and local judicial bodies with jurisdiction over family law,

"(v) Federal agencies responsible for the collection of health and social statistics, and

"(vi) organizations and agencies involved with privately arranged or international adoptions.

"(5) After the date of the submission of the report required by paragraph (3), the Advisory Committee shall cease to exist.

Reports.

"(b)(1)(A) Not later than July 1, 1988, the Secretary shall submit to the Congress a report that—

"(i) proposes a method of establishing, administering, and financing a system for the collection of data relating to adoption and foster care in the United States,

"(ii) evaluates the feasibility and appropriateness of collecting data with respect to privately arranged adoptions and adoptions arranged through private agencies without assistance from public child welfare agencies, and

"(iii) evaluates the impact of the system proposed under clause (i) on the agencies with responsibility for implementing it.

Reports.

"(B) The report required by subparagraph (A) shall—

"(i) specify any changes in law that will be necessary to implement the system proposed under subparagraph (A)(i), and

"(ii) describe the type of system that will be implemented under paragraph (2) in the absence of such changes.

Regulations.

"(2) Not later than December 31, 1988, the Secretary shall promulgate final regulations providing for the implementation of—

"(A) the system proposed under paragraph (1)(A)(i), or

"(B) if the changes in law specified pursuant to paragraph (1)(B)(i) have not been enacted, the system described in paragraph (1)(B)(ii).

Such regulations shall provide for the full implementation of the system not later than October 1, 1991.

"(c) Any data collection system developed and implemented under this section shall—

"(1) avoid unnecessary diversion of resources from agencies responsible for adoption and foster care;

"(2) assure that any data that is collected is reliable and consistent over time and among jurisdictions through the use of uniform definitions and methodologies;

"(3) provide comprehensive national information with respect to—

"(A) the demographic characteristics of adoptive and foster children and their biological and adoptive or foster parents,

"(B) the status of the foster care population (including the number of children in foster care, length of placement, type of placement, availability for adoption, and goals for ending or continuing foster care),

"(C) the number and characteristics of—

"(i) children placed in or removed from foster care, and

"(ii) children adopted or with respect to whom adoptions have been terminated, and

State and local governments.

"(D) the extent and nature of assistance provided by Federal, State, and local adoption and foster care programs and the characteristics of the children with respect to whom such assistance is provided; and

"(4) utilize appropriate requirements and incentives to ensure that the system functions reliably throughout the United States.".

Subtitle F—Provision Relating to Access to Health Care

Sec. 9501. Continuation coverage for retirees in cases of bankruptcies.

SEC. 9501. CONTINUATION COVERAGE FOR RETIREES IN CASES OF BANKRUPTCIES.

(a) LOSS OF COVERAGE OF RETIREE THROUGH BANKRUPTCY AS QUALIFYING EVENT.—

(1) IRC AMENDMENT.—Paragraph (3) of section 162(k) of the Internal Revenue Code of 1986 (relating to qualifying event with respect to continuation coverage requirements under group health plans) is amended by adding at the end the following:

Post, p. 2095. 26 USC 162.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

Employment and unemployment.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in paragraph (7)(B)(iv) within one year before or after the date of commencement of the proceeding."

100 STAT. 2076

(2) ERISA AMENDMENT.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by adding at the end the following:

"(6) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

Employment and unemployment.

In the case of an event described in paragraph (6), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in section 607(3)(C) within one year before or after the date of commencement of the proceeding."

Post, p. 2077.

(b) PERIOD OF CONTINUATION COVERAGE.—

(1) LIFE OF COVERED EMPLOYEE OR WIDOW AND ADDITIONAL 36 MONTHS FOR SURVIVING SPOUSE AND DEPENDENTS.—

(A) IRC AMENDMENTS.—Clause (i) of section 162(k)(2)(B) of the Internal Revenue Code of 1986 (relating to maximum period), as amended by section 1895(d)(2)(A) of the Tax Reform Act of 1986, is amended—

Post, p. 2095. 26 USC 162.

(i) in subclause (II), by inserting "(other than a qualifying event described in paragraph (3)(F))" after "qualifying event" the first place it appears,

(ii) in subclause (III), by inserting "or (3)(F)" after "(3)(B)",

(iii) by redesignating subclause (III) as subclause (IV), and

(iv) by inserting after subclause (II) the following new subclause:

"(III) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in paragraph (7)(B)(iv)(III)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee."

(B) ERISA AMENDMENTS.—Subparagraph (A) of section 602(2) of the Employee Retirement Income Security Act of 1974 (relating to maximum period), as amended by section 1895(d)(2)(B) of the Tax Reform Act of 1986, is amended—

Post p. 2095; 29 USC 1162.

(i) in clause (ii), by inserting "(other than a qualifying event described in section 603(6))" after "qualifying event" the first place it appears,

(ii) in clause (iii), by inserting "or 603(6)" after "603(2)",

(iii) by redesignating clause (iii) as clause (iv), and

(iv) by inserting after clause (ii) the following new clause:

"(iii) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in 603(6) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in section 607(3)(C)(iii)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee."

(2) COVERAGE NOT LOST UPON ENTITLEMENT TO MEDICARE BENEFITS.—

(A) IRC AMENDMENT.—Subclause (II) of section 162(k)(2)(B)(iv) of the Internal Revenue Code of 1986 (relating to reemployment or medicare eligibility) is amended by inserting "in the case of a qualified beneficiary other than a qualified beneficiary described in paragraph (7)(B)(iv)," before "entitled".

26 USC 162.

(B) ERISA AMENDMENT.—Clause (ii) of section 602(2)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(D)) is amended by inserting "in the case of a qualified beneficiary other than a qualified beneficiary described in section 607(3)(C)," before "entitled".

Infra.

(c) DEFINITION OF QUALIFIED BENEFICIARY MODIFIED IN REORGANIZATION CASES.—

(1) IRC AMENDMENT.—Section 162(k)(7)(B) of the Internal Revenue Code of 1986, as amended by section 1895(d)(7) of the Tax Reform Act of 1986 (relating to special rule for termination and reduced employment in definition of qualified beneficiary), is amended by adding at the end the following new clause:

Post, p. 2095.

"(iv) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in paragraph (3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(I) as the spouse of the covered employee,

"(II) as the dependent child of the employee, or

"(III) as the surviving spouse of the covered employee.".

(2) ERISA AMENDMENT.—Section 607(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) (relating to special rule for termination and reduced employment in definition of qualified beneficiary) is amended by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in section 603(6), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

Ante, p. 2076.

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the employee, or

"(iii) as the surviving spouse of the covered employee.".

(d) NOTICE.—

(1) IRC AMENDMENT.—Subparagraphs (B) and (D)(i) of section 162(k)(6) of the Internal Revenue Code of 1986 (relating to notice requirements) are amended by striking "or (D)" each place it appears and inserting in lieu thereof "(D), or (F)".

Post, p. 2095.

(2) ERISA AMENDMENT.—Paragraphs (2) and (4)(A) of section 606 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166) (relating to notice requirements) are amended by

striking "or (4)" each place it appears and inserting in lieu thereof "(4), or (6)".

(e) Effective Date.—

26 USC 162 note.

(1) In general.—The amendments made by this section shall take effect as if included in title X of the Consolidated Omnibus Budget Reconciliation Act of 1985.

Ante, p. 222.

(2) Treatment of certain bankruptcy proceedings.—Notwithstanding paragraph (1), section 10001(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985, and section 10002(d) of such Act, the amendments made by this section and by sections 10001 and 10002 of such Act shall apply in the case of plan years ending during the 12-month period beginning July 1, 1986, but only with respect to—

Ante, pp. 222, 227.

(A) a qualifying event described in section 162(k)(3)(F) of the Internal Revenue Code of 1986 or section 603(6) of the Employee Retirement Income Security Act of 1974, and

Ante, p. 2095.

Ante, p. 2076.

(B) a qualifying event described in section 162(k)(3)(A) of the Internal Revenue Code of 1986 or section 603(1) of the Employee Retirement Income Security Act of 1974 relating to the death of a retired employee occurring after the date of the qualifying event described in subparagraph (A).

(3) Treatment of current retirees.—Section 162(k)(3)(F) of the Internal Revenue Code of 1986 and section 603(6) of the Employee Retirement Income Security Act of 1974 apply to covered employees who retired before, on, or after the date of the enactment of this Act.

(4) Notice.—In the case of a qualifying event described in section 603(6) of the Employee Retirement Income Security Act of 1974 that occurred before the date of the enactment of this Act, the notice required under section 606(2) of such Act (and under section 162(k)(6)(B) of the Internal Revenue Code of 1986) with respect to such event shall be provided no later than 30 days after the date of the enactment of this Act.

Ante, p. 230.

Ante, p. 2077.

Post, p. 2095; 26 USC 162.

Approved October 21, 1986.

LEGISLATIVE HISTORY—H.R. 5300 (S. 2706) (S. 2799):

HOUSE REPORTS: No. 99-727 (Comm. on the Budget) and No. 99-1012 (Comm. of Conference).

SENATE REPORTS: No. 99-348 accompanying S. 2706 (Comm. on the Budget) and No. 99-479 accompaning S. 2799 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 132 (1986):
- Sept. 17-19, S. 2706 considered and passed Senate.
- Sept. 24, H.R. 5300 considered and passed House.
- Sept. 25, considered and passed Senate, amended, in lieu of S. 2706.
- Sept. 27, S. 2799 considered and passed Senate.
- Oct. 17, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
- Oct. 21, Presidential statement.

COMMERCE ACTS

Public Law 99-502
99th Congress

100 STAT. 1785

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards, and for other purposes.

Oct. 20, 1986
[H.R. 3773]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Technology Transfer Act of 1986.
Commerce and trade.
Government organization and employees.
15 USC 3701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Technology Transfer Act of 1986".

15 USC 3701 note.

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

15 USC 3711-3714.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 16 through 19, and by inserting immediately after section 11 the following:

15 USC 3710a.

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) General Authority.—Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

State and local governments.
Business and industry.
Schools and colleges.

"(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

"(2) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authorities for Government-owned inventions made at the laboratory and other inventions of Federal employees that may be voluntarily assigned to the Government.

"(b) Enumerated Authority.—Under agreements entered into pursuant to subsection (a)(1), a Government-operated Federal laboratory may (subject to subsection (c) of this section)—

"(1) accept, retain, and use funds, personnel, services, and property from collaborating parties and provide personnel, services, and property to collaborating parties;

Patents and trademarks.

"(2) grant or agree to grant in advance, to a collaborating party, patent licenses or assignments, or options thereto, in any invention made in whole or in part by a Federal employee under the agreement, retaining a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government and such other rights as the Federal laboratory deems appropriate; and

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"(3) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party; and

"(4) to the extent consistent with any applicable agency requirements and standards of conduct, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

Regulations.

"(c) CONTRACT CONSIDERATIONS.—(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

"(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this Act.

"(3)(A) Any agency using the authority given it under subsection (a) shall review employee standards of conduct for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed).

"(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

"(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

Small business.

"(A) give special consideration to small business firms, and consortia involving small business firms; and

Business and industry.
International agreements.

"(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

"(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

"(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented under this section, the head of the agency or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

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Records.

"(6) Each agency shall maintain a record of all agreements entered into under this section.

"(d) DEFINITION.—As used in this section—

"(1) the term 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code; and

"(2) the term 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government.

"(e) DETERMINATION OF LABORATORY MISSIONS.—For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

"(f) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 3. ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended— *Post*, p. 1791.

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which, in cooperation with Federal Laboratories and the private sector, shall—

"(A) develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

"(i) to the extent that such requests can be responded to with published information available to the National Tech- 100 STAT. 1788
nical Information Service, refer such requests to that Service, and

"(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

"(I) when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments; and

"(J) seek advice in each Federal laboratory consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government).

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more member laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Bureau of Standards shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

Reports

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"(6) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(7)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Bureau of Standards at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Bureau to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

"(8)(A) The Consortium shall use 5 percent of the funds provided in paragraph (7)(A) to establish demonstration projects in technology transfer. To carry out such projects, the Consortium may arrange for grants or awards to, or enter into agreements with, nonprofit State, local, or private organizations or entities whose primary purposes are to facilitate cooperative research between the Federal laboratories and organizations not associated with the Federal laboratories, to transfer technology from the Federal laboratories, and to advance State and local economic activity.

"(B) The demonstration projects established under subparagraph (A) shall serve as model programs. Such projects shall be designed to develop programs and mechanisms for technology transfer from the Federal laboratories which may be utilized by the States and which will enhance Federal, State, and local programs for the transfer of technology.

"(C) Application for such grants, awards, or agreements shall be in such form and contain such information as the Consortium or its designee shall specify.

Records.

"(D) Any person who receives or utilizes any proceeds of a grant or award made, or agreement entered into, under this paragraph shall keep such records as the Consortium or its designee shall determine are necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition of such proceeds and the total cost of the project in connection with which such proceeds were used.".

SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) RESPONSIBILITY FOR TECHNOLOGY TRANSFER.—Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by adding at the end thereof the following new paragraphs:

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"(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

"(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b) RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking out "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by inserting immediately before the next to last sentence the following new sentence: "Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.";

(C) by striking out "requirements set forth in (1) and/or (2) of this subsection" in the next to last sentence and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(D) by striking out "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by striking out "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,", and by striking out "and" after the semicolon;

(C) by striking out "in response to requests from State and local government officials." in paragraph (4) and inserting in lieu thereof "to State and local government officials; and"; and

(D) by inserting immediately after paragraph (4) the following new paragraph:

State and local governments.

"(5) to participate, where feasible, in regional, State, and local programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the Federal laboratory is located."

(c) Dissemination of Technical Information.—Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking out "(d)" and all that follows down through "shall—" and inserting in lieu thereof the following:

(d) Dissemination of Technical Information.—The National Technical Information Service shall—";

(2) by striking out paragraph (2);

(3) by striking out "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

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(4) by striking out paragraph (4) and inserting in lieu thereof the following:

State and local governments.

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;";

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking out "(c)(4)" in paragraph (4) as so redesignated and inserting in lieu thereof "(c)(3)".

(d) Agency Reporting.—Section 11(f) of such Act (15 U.S.C. 3710(e)) (as redesignated by section 3(1) of this Act) is amended—

Reports.

(1) by striking out "prepare biennially a report summarizing the activities" in the first sentence and inserting in lieu thereof "report annually to the Congress, as part of the agency's annual budget submission, on the activities"; and

(2) by striking out the second sentence.

15 USC 3710.

SEC. 5. FUNCTIONS OF THE SECRETARY OF COMMERCE.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) Functions of the Secretary.—(1) The Secretary, in consultation with other Federal agencies, may—

"(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

"(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

"(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

Reports.

"(2) Two years after the date of the enactment of this subsection and every two years thereafter, the Secretary shall submit a summary report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this Act. Other Federal agencies shall cooperate in the report's preparation.

"(3) Not later than one year after the date of the enactment of the Federal Technology Transfer Act of 1986, the Secretary shall submit to the President and the Congress a report regarding— Reports.

"(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and Copyrights. State and local governments.

"(B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.".

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SEC. 6. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OR FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 12 the following new section:

"SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES.

15 USC 3710b.

"The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government, or

"(2) exemplary activities that promote the domestic transfer of science and technology development within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.".

SEC. 7. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 13 the following new section:

"SEC. 14. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

15 USC 3710c.

"(a) IN GENERAL.—(1) Except as provided in paragraphs (2) and (4), any royalties or other income received by a Federal agency from the licensing or assignment of inventions under agreements entered into under section 12, and inventions of Government-operated Federal laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention and shall be disposed of as follows:

"(A)(i) The head of the agency or his designee shall pay at least 15 percent of the royalties or other income the agency receives on account of any invention to the inventor (or co-inventors) if the inventor (or each such co-inventor) was an employee of the agency at the time the invention was made. This clause shall take effect on the date of the enactment of this section unless the agency publishes a notice in the Federal Register within 90 days of such date indicating its election to file a Notice of Proposed Rulemaking pursuant to clause (ii). Effective date. Federal Register, publication.

"(ii) An agency may promulgate, in accordance with section 553 of title 5, United States Code, regulations providing for an alternative program for sharing royalties with inventors who were employed by Regulations.

the agency at the time the invention was made and whose names appear on licensed inventions. Such regulations must—

"(I) guarantee a fixed minimum payment to each such inventor, each year that the agency receives royalties from that

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inventor's invention;

"(II) provide a percentage royalty share to each such inventor, each year that the agency receives royalties from that inventor's invention in excess of a threshold amount;

"(III) provide that total payments to all such inventors shall exceed 15 percent of total agency royalties in any given fiscal year; and

"(IV) provide appropriate incentives from royalties for those laboratory employees who contribute substantially to the technical development of a licensed invention between the time of the filing of the patent application and the licensing of the invention.

Regulations

"(iii) An agency that has published its intention to promulgate regulations under clause (ii) may elect not to pay inventors under clause (i) until the expiration of two years after the date of the enactment of this Act or until the date of the promulgation of such regulations, whichever is earlier. If an agency makes such an election and after two years the regulations have not been promulgated, the agency shall make payments (in accordance with clause (i)) of at least 15 percent of the royalties involved, retroactive to the date of the enactment of this Act. If promulgation of the regulations occurs within two years after the date of the enactment of this Act, payments shall be made in accordance with such regulations, retroactive to the date of the enactment of this Act. The agency shall retain its royalties until the inventor's portion is paid under either clause (i) or (ii). Such royalties shall not be transferred to the agency's Government-operated laboratories under subparagraph (B) and shall not revert to the Treasury pursuant to paragraph (2) as a result of any delay caused by rulemaking under this subparagraph.

"(B) The balance of the royalties or other income shall be transferred by the agency to its Government-operated laboratories, with the majority share of the royalties or other income from any invention going to the laboratory where the invention occurred; and the funds so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(i) for payment of expenses incidental to the administration and licensing of inventions by that laboratory or by the agency with respect to inventions which occurred at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for invention management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of that laboratory;

"(iii) to further scientific exchange among the Government-operated laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency, and for other activities that increase the licensing potential for transfer of the technology of the Government-operated laboratories of the agency.

Any of such funds not so used or obligated by the end of the fiscal year succeeding the fiscal year in which they are received shall be paid into the Treasury of the United States.

"(2) If, after payments to inventors under paragraph (1), the royalties received by an agency in any fiscal year exceed 5 percent of the budget of the Government-operated laboratories of the agency

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for that year, 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any funds not so used or obligated shall be paid into the Treasury of the United States.

Wages.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $100,000 per year to any one person, unless the President approves a larger award (with the excess over $100,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

"(4) A Federal agency receiving royalties or other income as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, shall retain such royalties or income to the extent required to offset the payment of royalties to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (i) of paragraph (1)(B), and the cost of foreign patenting and maintenance for such invention performed at the request of the other agency or laboratory. All royalties and other income remaining after payment of the royalties, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the invention involved was one assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency, or

"(2) by an employee of the agency who was not working in the laboratory at the time the inventon was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—(1) In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.

"(2) The Comptroller General, five years after the date of the enactment of this section, shall review the effectiveness of the various royalty-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, his findings, conclusions, and recommendations for improvements in such programs.".

SEC. 8. EMPLOYEE ACTIVITIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 14 the following new section:

"SEC. 15. EMPLOYEE ACTIVITIES.

Patents and trademarks.
Business and industry.
15 USC 3710d.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

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"(b) DEFINITION.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 9. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) REPEAL OF NATIONAL INDUSTRIAL TECHNOLOGY BOARD.—Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

(b) CHANGES IN TERMINOLOGY OR ADMINISTRATIVE STRUCTURE.—(1) Section 3(2) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended by striking out "centers for industrial technology" and inserting in lieu thereof "cooperative research centers". 15 USC 3702.

15 USC 3703. (2) Section 4 of such Act is amended—

(A) by striking out "Industrial Technology" in paragraph (1) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking out "'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof "'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking out "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking out paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking out "owned and funded" in paragraph (6) as so redesignated and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

15 USC 3704. (3) Section 5(a) of such Act is amended by striking out "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation".

(4) Section 5(b) of such Act is amended by striking out "DIRECTOR" and inserting in lieu thereof "ASSISTANT SECRETARY", and by striking out "a Director of the Office" and all that follows and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act is amended—

(A) by striking out "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary";

(B) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(C) by inserting immediately after paragraph (6) the following new paragraphs:

"(7) encourage and assist the creation of centers and other joint initiatives by State of local governments, regional organizations, private businesses, institutions of higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;

"(8) propose and encourage cooperative research involving appropriate Federal entities, State or local governments, regional organizations, colleges or universities, nonprofit organizations, or private industry to promote the common use of resources, to improve training programs and curricula, to stimulate interest in high technology careers, and to encourage the effective dissemination of technology skills within the wider community;".

15 USC 3705. (6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS."

(7) Section 6(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act is amended by striking out "basic and applied".

(9) Section 6(e) of such Act is amended to read as follows:

"(e) Research and Development Utilization.—In the promotion of technology from research and development efforts by Centers under this section, chapter 18 of title 35, United States Code, shall apply to the extent not inconsistent with this section.".

35 USC 200 *et seq.*

(10) Section 6(f) of such Act is repealed.

(11) The heading of section 8 of such Act is amended by striking out "CENTERS FOR INDUSTRIAL TECHNOLOGY" and inserting in lieu thereof "COOPERATIVE RESEARCH CENTERS".

15 USC 3707.

(12) Section 8(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(13) Section 19 of such Act (as redesignated by section 2 of this Act) is amended by striking out "pursuant to this Act" and inserting in lieu thereof "pursuant to the provisions of this Act (other than sections 12, 13, and 14)".

15 USC 3714.

(c) Related Conforming Amendment.—Section 210 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986, shall take precedence over the provisions of this chapter to the extent that they permit or require a disposition of rights in subject inventions which is inconsistent with this chapter.".

Ante, p. 1785.

(d) Additional Definitions.—Section 4 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding at the end thereof the following new paragraphs:

15 USC 3703.

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

100 STAT. 1797

"(10) 'Made' when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

"(11) 'Small business firm' means a small business concern as defined in section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(12) 'Training technology' means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.".

(e) Redesignation of Sections To Reflect Changes Made by Preceding Provisions.—(1) Such Act (as amended by the preceding provisions of this Act) is further amended by redesignating sections 11 through 19 as sections 10 through 18, respectively.

15 USC 3710-3714.

(2)(A) Section 5(d) of such Act is amended by inserting "(as then in effect)" after "sections 5, 6, 8, 11, 12, and 13 of this Act".

15 USC 3704.

(B) Section 8(a) of such Act is amended by striking out the last sentence.

15 USC 3707.

(C) Section 9(d) of such Act is amended by striking out "or 13" and inserting in lieu thereof "10, 14, or 16".

15 USC 3708.

(3) Section 13(a)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "section 12" in the matter preceding subparagraph (A) and inserting in lieu thereof "section 11".

15 USC 3710c.

15 USC 3714. (4) Section 18 of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "sections 12, 13, and 14" and inserting in lieu thereof "sections 11, 12, and 13".

(f) CLARIFICATION OF FINDINGS AND PURPOSES.—(1) The second sentence of section 2(10) of such Act (15 U.S.C. 3701(10)) is amended by inserting ", which include inventions, computer software, and training technologies," immediately after "developments".

(2) Section 3(3) of such Act (15 U.S.C. 3702(3)) is amended by inserting ", including inventions, software, and training technologies," immediately after "developments".

Approved October 20, 1986.

LEGISLATIVE HISTORY—H.R. 3773:

HOUSE REPORTS: No. 99-415 (Comm. on Science and Technology) and No. 99-953 (Comm. of Conference).
SENATE REPORTS: No. 99-283 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 9, considered and passed House.
Vol. 132 (1986): Aug. 9, considered and passed Senate, amended.
Oct. 3, Senate agreed to conference report.
Oct. 7, House agreed to conference report.

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100 STAT. 3236

Public Law 99-574
99th Congress

An Act

Oct. 28, 1986
[H.R. 4354]

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes.

National Bureau of Standards Authorization Act for Fiscal Year 1987.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1987".

AUTHORIZATION FOR FOREIGN ACTIVITIES

SEC. 2. (a) There are authorized to be appropriated to the Secretary of Commerce (hereinafter referred to as the "Secretary") for fiscal year 1987, to carry out the activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, $36,582,000;
(2) Materials Science and Engineering, $21,228,000;
(3) Engineering Measurements and Standards, $35,875,000;
(4) Computer Science and Technology, $7,500,000; and
(5) Research Support Activities, $22,768,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amounts authorized under subsection (a), $1,900,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (3) of subsection (a), $3,470,000 is authorized only for the Center for Building Technology and $5,402,000 is authorized only for the Center for Fire Research;

(3) of the amount authorized under paragraph (4) of subsection (a), $1,000,000 is authorized only for Computer Security Activities;

(4) of the amount under paragraph (5) of subsection (a), $6,763,000 is authorized only for the Technical Competence Fund; and

(5) of the amount authorized under paragraph (5) of subsection (a), $6,500,000 is authorized only for the design, equipment, and construction of the Cold Neutron Research Facility.

(c)(1) Funds may be transferred among the line items listed in subsection (a) so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in each subsection.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for that line item in subsection (a); but a full and complete explanation of any such proposed transfer and the reason therefor must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when thirty calendar days have passed after the transmission of such written explanation.

Research and development.

(d) The National Bureau of Standards shall seek reimbursements of not less than $500,000 from other Federal agencies to expand its efforts in support of basic scientific research on the atmospheric, climatic, and environmental consequences of nuclear explosions and nuclear exchanges.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 3. In addition to the sums authorized by section 2, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $2,248,000 for the activities of the Office of Productivity, Technology, and Innovation.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized by sections 2 and 3, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $500,000 for the patent licensing activities of the National Technical Information Service.

AVAILABILITY OF APPROPRIATIONS

SEC. 5. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

FINANCIAL ASSISTANCE TO CURRENT AND PROSPECTIVE EMPLOYEES

SEC. 6. (a) In order to secure the services of the broadest possible range of talent in carrying out the programs of the National Bureau of Standards, the Act of March 3, 1901 (15 U.S.C. 271-278h) is amended by redesignating section 18 as section 19 and by inserting after section 17 the following new section:

15 USC 278h.

Fellowships.
Loans.
Grants.
Education.
15 USC 278g-1.

"SEC. 18. The Director is authorized to expend up to 1 per centum of the funds appropriated for activities of the National Bureau of Standards in any fiscal year, as the Director may deem desirable, for awards of research fellowships and other forms of financial assistance to students at institutions of higher learning within the United States who show promise as present or future contributors to the mission of the Bureau. The selection of persons to receive such fellowships and assistance shall be made on the basis of ability and of the relevance of the proposed work to the mission and programs of the Bureau.".

Effective date.
15 USC 278g-1 note.

(b) The amendments made by subsection (a) shall be effective October 1, 1986.

ASSESSMENT OF EMERGING TECHNOLOGIES REQUIRING RESEARCH IN METROLOGY

15 USC 282a.

SEC. 7. The Board of Assessment of the National Bureau of Standards programs shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Bureau abreast of its mission, including (but not limited to) Process and Quality Control, Technology Transfer, Engineering Databases, High-Performance Composites, Advanced Ceramics, Fiber Optics, Microwave Metrology, Bioprocess Engineering, and Advanced Computing Concepts. 100 STAT. 3238 Such review shall include estimates of the cost of the required effort, the required staffing level, and the period over which the research will be required.

POST-DOCTORAL FELLOWSHIP PROGRAM

15 USC 278h. 15 USC 271h.

SEC. 8. (a) The Act of March 3, 1901 (15 U.S.C. 271-271h), as amended by section 6 of this Act, is further amended by redesignating section 19 as section 20 and by inserting after section 18 the following new section:

Fellowships. 15 USC 278g-2.

"SEC. 19. The National Bureau of Standards, in conjunction with the National Academy of Sciences, shall establish and conduct a post-doctoral fellowship program which shall be organized and carried out in substantially the same manner as the National Academy of Sciences/National Research Council Post-Doctoral Research Associate Program that was in effect prior to 1986, and which shall include not less than twenty nor more than forty new fellows per fiscal year.".

Effective date. 15 USC 278g-2 note.

(b) The amendments made by subsection (a) shall be effective October 1, 1987.

PROCESS AND QUALITY CONTROL AND CALIBRATION PROGRAMS

Research and development.

SEC. 9. (a) The Director of the National Bureau of Standards shall hold discussions with representatives of Federal agencies, including the Department of Defense, the Department of Energy, the National Aeronautics and Space Administration, the Federal Aviation Administration, the National Institutes of Health, the Nuclear Regulatory Commission, and the Federal Communications Commission, which use (or the contractors of which depend on) the process and quality control and calibration programs of the Bureau, and with companies, organizations, and major engineering societies from the private sector, in order to determine the extent of the demand for research and services under such programs, the appropriate methods of paying for research and services under such programs, and the willingness of Federal agencies and the private sector to pay for such research and services.

Reports.

(b) Within six months after the date of the enactment of this Act, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of the Director's findings based on the discussions held under subsection (a), together with recommendations for such legislative actions as may be needed to implement a comprehensive Federal process and quality control and calibration program.

DEMONSTRATION PROJECT RELATING TO PERSONNEL MANAGEMENT

15 USC 275 note.

SEC. 10. (a)(1) The Office of Personnel Management and the National Bureau of Standards shall jointly design a demonstration project which shall be conducted by the Director of the National Bureau of Standards.

(2) The demonstration project shall, except as otherwise provided in this section, be conducted in accordance with section 4703 of title 5, United States Code, and shall be counted as a single project for purposes of subsection (d)(2) of such section.

(3) Subject to subsections (f) and (g) of section 4703 of title 5, United States Code, the demonstration project shall cover any posi-

100 STAT. 3239

tion within the National Bureau of Standards which would otherwise be subject to—

(A) subchapter III of chapter 53 of title 5, United States Code, relating to the General Schedule; 5 USC 5331.

(B) subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service; or 5 USC 5381.

(C) chapter 54 of title 5, United States Code, relating to the Performance Management and Recognition System. 5 USC 5401 *et seq.*

(b) Under the demonstration project, the Director of the National Bureau of Standards shall provide that—

(1) the rate of basic pay for a position may not be less than the minimum rate of basic pay, nor more than the maximum rate of basic pay, payable for the pay band (as referred to in paragraph (3)) within which such position has been placed;

(2) the minimum and maximum rates of basic pay for each pay band shall be adjusted at the times, and by the amounts, provided for under subsection (c);

(3) positions shall be classified under a system using pay bands which shall be established by combining or otherwise modifying the classes, grades, or other units which would otherwise be used in classifying the positions involved;

(4) employees shall be evaluated under a performance appraisal system which—

(A) uses peer comparison and ranking wherever appropriate; and

(B) affords appeal rights comparable to those afforded under chapter 43 of title 5, United States Code; 5 USC 4301 *et seq.*

(5)(A) the rate of basic pay of each participating employee will be reviewed annually, and shall be adjusted on the basis of the appraised performance of the employee; and

(B) subject to subsection (c)(4)(A)(i), the adjustment under subparagraph (A) in any year in the case of any employee whose performance is rated at the fully successful level or higher shall be at least the percentage adjustment taking effect under subsection (c)(3) in such year;

(6) appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided;

(7) performance-recognition bonuses, and recruitment and retention allowances, shall be awarded in appropriate circumstances (but shall not be considered a part of basic pay);

(8) there shall be an employee development program which includes provisions under which employees may, in appropriate circumstances, be granted sabbaticals, the terms and conditions of which shall be consistent with those applicable for members of the Senior Executive Service under section 3396(c) of title 5, United States Code (excluding paragraph (2)(B) thereof);

(9) payment of travel expenses shall be provided for personnel to their first post of duty in the same manner as is authorized for members of the Senior Executive Service under section 5723 of title 5, United States Code, at the discretion of the Director; and

(10) the methods of establishing qualification requirements for, recruitment for, and appointment to positions shall, at the discretion of the Director, include methods involving direct-examination and hiring.

100 STAT. 3240

(c)(1) For the purpose of this subsection, the term "compensation" means the total value of the various forms of compensation provided, including—

(A) basic pay;
(B) bonuses;
(C) allowances;
(D) retirement benefits;
(E) health insurance benefits;
(F) life insurance benefits; and
(G) leave benefits.

Contracts.
Reports.

(2) The Director of the National Bureau of Standards shall, by contract or otherwise, provide for the preparation of reports which, based on appropriate surveys—

(A) shall include findings as to—

(i) the extent to which, as of the commencement of the demonstration project, the overall average level of compensation provided with respect to positions under the demonstration project is deficient in comparison to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(ii) with respect to each year thereafter, any net increase occurring during such year in the extent of the deficiency in the overall average level of compensation provided with respect to positions under the demonstration project, as compared to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(B) shall recommend a single percentage by which basic pay for all positions under the demonstration project must be increased so that, when considered in conjunction with the other forms of compensation generally provided, any net increase determined under subparagraph (A)(ii) will be eliminated.

(3) Whenever the Director of the National Bureau of Standards receives a recommendation under paragraph (2)(B), the Director—

(A) shall increase the minimum and maximum rates of basic pay for each such pay band by the lesser of—

(i) the percentage recommended; or

(ii) the overall average percentage of the adjustment in the rates of pay under the General Schedule under section 5305 of title 5, United States Code, for the period involved; and

(B) if and to the extent that funds are available for that purpose, may further increase those minimum and maximum rates—

(i) to make up for any part of the difference between the respective percentages under subparagraph (A), if the percentage under subparagraph (A)(ii) is the lesser; and

(ii) after making up for the entirety of any difference determined under clause (i) (including from any previous year), to eliminate any part of any remaining deficiency as originally determined under paragraph (2)(A)(i).

(4)(A) Notwithstanding any other provision of this section—

(i) the maximum rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for level IV of the Executive Schedule; and

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(ii) the amount of basic pay, bonuses, and allowances paid during any fiscal year to any employee participating in the demonstration project may not, in the aggregate, exceed the annual rate of basic pay payable for level I of the Executive Schedule.

(B)(i) Any amount which is not paid to an employee during a fiscal year because of the limitation under subparagraph (A)(ii) shall be paid in a lump sum at the beginning of the following fiscal year.

(ii) Any amount paid under this subparagraph during a fiscal year shall be taken into account for purposes of applying the limitation under subparagraph (A)(ii) with respect to such fiscal year.

(5) Notwithstanding any other provision of this section, the demonstration project shall be conducted in such a way so that, with respect to the 12-month period beginning on October 1, 1986, the total cost to the Government relating to providing compensation to participating employees shall not exceed the total cost which would have resulted if this section had not been enacted.

(6)(A) If the minimum rate of basic pay for a pay band, after an increase under paragraph (3)(A), exceeds the rate of basic pay payable to an employee whose position would otherwise be within such pay band, the employee's position may, notwithstanding subsection (b)(1), be placed in the next lower pay band.

(B) Placement of a position in a lower pay band under subparagraph (A) shall not be considered a reduction in grade or pay for purposes of subchapter II of chapter 75 of title 5, United States Code, or a comparable provision under the project.

5 USC 7511.

(d)(1) The rate of basic pay for an employee serving in a position at the time it is converted to a position covered by the demonstration project may not be reduced by reason of the establishment of such project.

(2)(A) Each employee referred to in paragraph (1) shall be paid—

(i) in the case of an employee serving in a position under the General Schedule on the date the position becomes covered by the demonstration project, a lump-sum pro rata share of the equivalent of any within-grade increase which would have been due the employee under section 5335 of title 5, United States Code, computed as provided in subparagraph (B), and

(ii) in the case of an employee serving in a position subject to chapter 54 of title 5, United States Code, on such date, a lump-sum pro rata share of the equivalent of the employee's merit increase which would have been due under such chapter, computed as provided in subparagraph (B), taking into account the performance requirements applicable to such increase.

5 USC 5401 *et seq.*

(B) For purposes of subparagraph (A), the pro rata share of an equivalent increase referred to in such subparagraph shall be computed through the day before the date referred to in such subparagraph.

(e)(1)(A) In carrying out section 4703(h) of title 5, United States Code, with respect to the demonstration project, the Office of Personnel Management shall provide that such project will be evaluated on an annual basis by a contractor. Such contractor shall be especially qualified to perform the evaluation based on its expertise in matters relating to personnel management and compensation.

Reports.

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(B) The contractor shall report its findings to the Office in writing. After considering the report, the Office shall transmit a copy of the report, together with any comments of the Office and any comments submitted by the National Bureau of Standards, to—

(i) the Committee on Post Office and Civil Service, and the Committee on Science and Technology, of the House of Representatives; and

(ii) the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation, of the Senate.

Reports.

(2) The Comptroller General shall, not later than 4 years after the date on which the demonstration project commences, submit to each of the committees referred to in paragraph (1)(B) a final report concerning such project. Such report shall include any recommendations for legislation or other action which the Comptroller General considers appropriate.

Contracts.

(f) The authority to enter into any contract under this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) The demonstration project shall commence not later than January 1, 1988.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 4354 (S. 2664):

HOUSE REPORTS: No. 99-617 (Comm. on Science and Technology) and Pt. 2 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 99-399 accompanying S. 2664 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 28, Presidential statement.

100 STAT. 3522 Public Law 99-633
99th Congress

An Act

Nov. 7, 1986
[S. 2245]

To authorize appropriations to carry out the Export Administration Act of 1979 and export promotion activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPORT ADMINISTRATION ACT.

Section 18(b) of the Export Administration Act of 1979 (50 U.S.C. App. 2417(b)) is amended to read as follows:

"(b) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to carry out the purposes of this Act—

"(1) $35,935,000 for each of the fiscal years 1987 and 1988, of which $12,746,000 shall be available for each such year only for enforcement, $2,000,000 shall be available for each such year only for foreign availability assessments under subsections (f) and (h)(6) of section 5, and $21,189,000 shall be available for each such year for all other activities under this Act; and 50 USC 2404.

Wages.
Retirement.

"(2) such additional amounts for each of the fiscal years 1987 and 1988 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 2. EXPORT PROMOTION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended by striking "$113,273,000 for each of the fiscal years 1985 and 1986" and inserting "$123,922,000 for each of the fiscal years 1987 and 1988".

Approved November 7, 1986.

LEGISLATIVE HISTORY—S. 2245:

SENATE REPORTS: No. 99-271 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 132 (1986):
July 21, considered and passed Senate.
Oct. 14, considered and passed House, amended.
Oct. 18, Senate concurred in House amended with an amendment; House concurred in Senate amendment.

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100 STAT. 3706 Public Law 99-659
99th Congress

An Act

Nov. 14, 1986
[S. 991]

To amend certain provisions of the law regarding the fisheries of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FISHERIES CONSERVATION AND MANAGEMENT

SEC. 101. UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES WITHIN THE EXCLUSIVE ECONOMIC ZONE.

(a) DEFINITION OF EXCLUSIVE ECONOMIC ZONE.—Section 3 of the Magnuson Fishery Conservation and Management Act (hereinafter in this title referred to as the "Act") (16 U.S.C. 1802) is amended—

(1) by striking out paragraph (8);

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term 'exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. 97 Stat. 1557. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(b) Authority Regarding Exclusive Economic Zone.—Title I of the Act (16 U.S.C. 1811–1813) is amended to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"SEC. 101. UNITED STATES SOVEREIGN RIGHTS TO FISH AND FISHERY MANAGEMENT AUTHORITY.

Claims.
16 USC 1811.

"(a) In the Exclusive Economic Zone.—Except as provided in section 102, the United States claims, and will exercise in the manner provided for in this Act, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone.

"(b) Beyond the Exclusive Economic Zone.—The United States claims, and will exercise in the manner provided for in this Act, exclusive fishery management authority over the following:

"(1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that that management authority does not extend to any such species during the time they are found within any foreign nation's territorial sea or exclusive economic zone (or the equivalent), to the extent that that sea or zone is recognized by the United States.

100 STAT. 3707

"(2) All Continental Shelf fishery resources beyond the exclusive economic zone.

"SEC. 102. EXCLUSION FOR HIGHLY MIGRATORY SPECIES.

16 USC 1812.

"The sovereign rights and exclusive fishery management authority asserted by the United States under section 101 over fish do not include, and may not be construed to extend to, highly migratory species of fish.".

(c) Conforming Amendments.—The Act is amended—

(1) by amending section 2—

(A) by amending paragraph (1) of subsection (b) to read as follows:

16 USC 1801.

"(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish except highly migratory species, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and 97 Stat. 1557. (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources;"; and

(B) by amending paragraph (5) of subsection (c) to read as follows:

"(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources.";

(2) by striking out "fishery conservation zone" each place it appears therein and inserting "exclusive economic zone"; and

(3) by amending the entry for title I in the table of contents of the Act to read as follows:

"TITLE I—UNITED STATES RIGHTS AND AUTHORITY REGARDING FISH AND FISHERY RESOURCES

"Sec. 101. United States sovereign rights to fish and fishery management authority.
"Sec. 102. Exclusion for highly migratory species."

SEC. 102. FOREIGN FISHING PERMITS.

Section 204(b) of the Act (16 U.S.C. 1824(b)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "No permit issued under this section may be valid for longer than a year; and section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.";

(2) by striking out ", upon its request" in paragraph (4)(C);

(3) by amending paragraph (6) by inserting ", or he may disapprove all or any portion of the application" immediately before the period at the end of subparagraph (A); and

(4) by amending paragraph (12) to read as follows:

Vessels.
Law enforcement and crime.

"(12) SANCTIONS.—(A) If any foreign fishing vessel has been used in the commission of any act prohibited by section 307, or if the owner or operator of the vessel has committed such an act, the Secretary may, or if any civil penalty imposed under section 308 or any criminal fine imposed under section 309 has not been paid and is overdue, the Secretary shall—

"(i) revoke such permit, if any, issued for the vessel under this subsection, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

100 STAT. 3708

"(ii) suspend such permit for the period of time deemed appropriate;

"(iii) deny a permit under this subsection to the vessel; or

"(iv) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under that application.

Any permit which is suspended under this subparagraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

"(B) The Secretary may temporarily deny or suspend the permit of any foreign fishing vessel pending the outcome of any administrative proceeding respecting a violation of section 307 of this Act if the Secretary determines that—

"(i) based upon information available to the Secretary, there are reasonable grounds to believe that the vessel has been used in the commission of such violation;

"(ii) immediate suspension of fishing privileges would serve the purposes of this Act; and

"(iii) either—

"(I) the violation presents a serious threat to the public interest,

"(II) the violation presents a serious threat to the achievement of any purpose or policy of this Act, or

"(III) the owner or operator of the vessel has been involved in a prior violation of this Act.

In applying this subparagraph—

"(I) the Secretary must notify the vessel owner of the proposed denial or suspension and give the owner a reasonable opportunity, not longer than 10 days from service of notice, to respond in writing or otherwise;

"(II) if a permit is denied or suspended under this subparagraph, any administrative proceeding respecting the violation at issue must be held as promptly as possible; and

"(III) if another permit application is pending for such vessel on or after the date of the violation, the Secretary need not act on that application before deciding whether or not to deny or suspend temporarily a permit under this subparagraph.".

SEC. 103. HEALTH AND SAFETY STANDARDS FOR FOREIGN FISHING VESSELS.

(a) STANDARDS FOR UNITED STATES OBSERVERS.—Subsection (i) of section 201 of the Act (19 U.S.C. 1821(i)) is amended— 16 USC 1821.

(1) by inserting "(A)" after "(1)" in paragraph (1);

(2) by inserting at the end of paragraph (1) the following new subparagraph:

"(B) The Secretary shall by regulation prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers."; and

(3) by amending subparagraph (B) of paragraph (2) to read as follows:

100 STAT. 3709

"(B) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or".

(b) COMPLIANCE WITH VESSEL SAFETY STANDARDS OF THE FLAG COUNTRY.—Paragraph (3) of section 204(b) of the Act (16 U.S.C. 1824(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by inserting "and" after the semicolon at the end of subparagraph (F); and

(3) by adding after subparagraph (F) the following new subparagraph:

"(G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that the vessel is in compliance with those standards;".

SEC. 104. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) VOTING MEMBERS.—(1) Subsection (b) of section 302 of the Act (16 U.S.C. 1852(b)) is amended as follows:

(A) Paragraph (2)(A) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable and experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources of the geographical area concerned. The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair apportionment, on a rotating or other basis, of the active participants (or their representatives) involved in the fisheries under Council jurisdiction.".

(B) Paragraph (2)(B) is amended—

(i) by adding after the first sentence thereof the following new sentence: "A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the state regarding those individuals.";

(ii) by striking out "knowledge or experience" in the third sentence thereof and inserting "knowledge and experience"; and

(iii) by adding at the end thereof the following new sentence: "An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).".

(C) Paragraph (3) is amended to read as follows:

"(3) Each voting member appointed to a Council by the Secretary in accordance with subsection (b)(2) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office.".

16 USC 1852 note.

(2) The amendments made by paragraph (1) shall apply with respect to voting members of regional fishery management councils who are appointed, and to individuals who are nominated for appointment as voting members, on or after the date of the enactment of this Act.

(b) COUNCIL COMMENT ON FEDERAL AND STATE ACTION AFFECTING HABITAT.—Section 302 of the Act is further amended—

100 STAT. 3710

(1) by redesignating subsection (i) as subsection (j); and

(2) by adding after subsection (h) the following new subsection:

"(i) FISHERY HABITAT CONCERNS.—Each Council may comment on, or make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction. Within 45 days after receiving such a comment or recommendation from a Council, a Federal agency must provide a detailed response, in writing, to the Council regarding the matter.".

State and local governments. Classified information. 16 USC 1852.

(c) CLOSURE OF MEETINGS.—Paragraph (4) of section 302(j) of the Act (as redesignated by subsection (b)) is amended by striking out "; except that" and all that follows thereafter and inserting "; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 303(d), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.".

(d) COMMITTEES AND PANELS.—Subsection (j) (as redesignated by subsection (b)) of section 302 of the Act is further amended by adding at the end thereof the following new paragraph:

"(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.".

(e) DISCLOSURE OF FINANCIAL INTEREST.—(1) Section 302 of the Act is further amended by adding at the end thereof the following new subsection:

"(k) DISCLOSURE OF FINANCIAL INTEREST.—(1) For purposes of this subsection, the term "affected individual" means an individual who—

"(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2);

"(B) is a voting member of a Council appointed under subsection (b)(2); or

"(C) is the executive director of a Council.

"(2) Each affected individual must disclose any financial interest held by—

"(A) that individual;

"(B) the spouse, minor child, or partner of that individual; and

"(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee;

in any harvesting, processing, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction.

"(3) The disclosure required under paragraph (2) shall be made—

"(A) in the case of an affected individual referred to in paragraph (1)(A), before appointment by the Secretary; and

"(B) in the case of an affected individual referred to in paragraph (1) (B) or (C), within 45 days of taking office.

"(4) An affected individual referred to in paragraph (1) (B) or (C) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2) (A), (B), or (C).

Regulations.

100 STAT. 3711

"(5) The financial interest disclosures required by this subsection shall—

"(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe; and

Records. Public information.

"(B) be kept on file, and made available for public inspection at reasonable hours, at the Council offices.

"(6) The participation by an affected individual referred to in paragraph (1) (B) or (C) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

"(7) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1) (B) or (C) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).".

16 USC 1852 note.

(2) For purposes of applying subsection (k) of section 302 of the Act (as added by paragraph (1)) to voting members and executive directors of regional fishery management councils who are serving in those capacities on the date on which the regulations prescribed to carry out that subsection first take effect, each such member or director must file a disclosure form under that subsection within 45 days after that date.

SEC. 105. FISHERY MANAGEMENT PLANS; DISCLOSURE OF CONFIDENTIAL STATISTICS.

(a) Required Provisions.—(1) Section 303(a) of the Act (16 U.S.C. 1853(a)) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting a comma; and

(C) by adding after paragraph (5) the following new paragraphs:

Vessels.

"(6) consider, and may provide for, temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safety of the vessels; and

"(7) include readily available information regarding the significance of habitat to the fishery and assessment as to the effects which changes to that habitat may have upon the fishery.".

16 USC 1853 note.

(2) The amendments made by paragraph (1) apply to each fishery management plan that—

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(A) is submitted to the Secretary of Commerce for review under section 304(a) of the Act, or that is prepared by the Secretary, after January 1, 1987; or

(B) is in effect on that date, but compliance with those amendments is not required except in conjunction with the amendment to the plan next occurring after that date.

(b) Disclosure of Confidential Statistics.—The first sentence of section 303(d) of the Act (16 U.S.C. 1853(d)) is amended to read as follows: "Any statistic submitted to the Secretary by any person in compliance with any requirement under subsection (a)(5) shall be confidential and shall not be disclosed; except—

100 STAT. 3712

"(1) to Federal employees and Council employees who are responsible for management plan development and monitoring; or

"(2) when required by court order.".

SEC. 106. ACTION BY SECRETARY REGARDING FISHERY MANAGEMENT PLANS.

Section 304 of the Act (16 U.S.C. 1854) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "(the date of receipt of which is hereafter in this section referred to as the 'receipt date')" in paragraph (1);

(B) by redesignating subparagraphs (A), (B), and (C) of paragraph (1) as subparagraphs (B), (C), and (D), respectively;

(C) by inserting immediately before subparagraph (B), as so redesignated, of paragraph (1) the following new subparagraph:

"(A) immediately make a preliminary evaluation of the management plan or amendment for purposes of deciding if it is consistent with the national standards and sufficient in scope and substance to warrant review under this subsection and—

"(i) if that decision is affirmative, implement subparagraphs (B), (C), and (D) with respect to the plan or amendment, or

"(ii) if that decision is negative—

"(I) disapprove the plan or amendment, and

"(II) notify the Council, in writing, of the disapproval and of those matters specified in subsection (b)(2)(A), (B) and (C) as they relate to the plan or amendment;";

(D) by amending subparagraph (C) (as so redesignated) of paragraph (1) by striking out "75-day" and inserting "60-day";

(E) by amending subparagraph (D) (as so redesignated) of paragraph (1) by striking out "30th day" and inserting "15th day";

(F) by amending paragraph (2)—

(i) by striking out "(1)(A)" and inserting "(1)(B)"; and

(ii) by striking out the period at the end of subparagraph (C) and inserting "and to fishery access adjustments referred to in section 303(a)(6)."; and

(G) by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall take action under this section on any fishery management plan or amendment to a plan which the Council characterizes as being a final plan or amendment.

"(B) For purposes of this section, the term 'receipt date' means the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, or an amendment to a plan, that it characterizes as a final plan or amendment."

(2) Subsection (b) is amended—

(A) by amending paragraph (1)(A) to read as follows:

"(A) the Secretary does not notify the Council in writing of—

100 STAT. 3713

"(i) his disapproval under subsection (a)(1)(A)(ii), or

"(ii) his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or";

(B) by striking out "75th day" in paragraph (1)(B) and inserting "60th day";

(C) by amending paragraph (2) by striking out "paragraph (1)(A)" and inserting "paragraph (1)(B)"; and

(D) by amending paragraph (3)—

(i) by striking out "If the Secretary" in subparagraph (A) and inserting "If the Secretary disapproves a proposed plan or amendment under subsection (a)(1)(A)(ii), or", and

(ii) by striking out "(a)(1)(A)" in each of subparagraphs (B)(i) and (C)(i) and inserting "(a)(1)(B)".

(3) Subsection (c) is amended—

(A) by striking out "75-day" in paragraph (2)(A)(ii) and inserting "60-day";

(B) by striking out "30th day" in paragraph (2)(A)(iii) and inserting "15th day"; and

(C) by striking out "75-day" wherever it appears in paragraph (2)(B) and inserting "60-day".

(4) Subsection (e) is amended—

(A) by inserting ", in cooperation with the Councils," immediately after "maintain";

(B) by striking out "management," and inserting "management and on the economics of the fisheries,"; and

(C) by adding at the end thereof the following: "The Secretary shall annually review and update the comprehensive program and make the results of the review and update available to the Councils.".

SEC. 107. SUBMISSION OF CERTAIN FALSE STATEMENTS A PROHIBITED ACT.

(a) KNOWING AND WILLFUL SUBMISSION.—Paragraph (1) of section 307 of the Act (16 U.S.C. 1857(1)) is amended—

(1) by striking out "or" at the end of subparagraph (G);

(2) by inserting "or" after the semicolon at the end of subparagraph (H); and

(3) by adding at the end thereof the following new subparagraph:

"(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.".

(b) CONFORMING AMENDMENT.—Section 309(a)(1) of the Act (16 U.S.C. 1859(a)(1)) is amended by striking out "or (H)" and inserting "(H), or (J)".

SEC. 108. CIVIL PENALTIES.

Courts, U.S.
Mail.

Section 308 of the Act (16 U.S.C. 1858) is amended—

(1) by amending the first sentence of subsection (b) to read as follows: "Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary, the Attorney General and the appropriate United States Attorney.";

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(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(3) by inserting immediately after subsection (c) a new subsection (d) to read as follows:

Vessels.
Claims.

"(d) IN REM JURISDICTION.—A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 307 shall be liable in rem for any civil penalty assessed for such violation under section 308 and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.".

SEC. 109. ADMINISTRATIVE FORFEITURES.

(a) PROCEDURES.—Section 310 of the Act (16 U.S.C. 1860) is amended—

(1) by amending the second sentence of subsection (c) to read as follows: "The provisions of the customs laws relating to—

"(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

"(2) the disposition of such property or the proceeds from the sale thereof; and

"(3) the remission or mitigation of any such forfeiture; shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, unless such provisions are inconsistent with the purposes, policy, and provisions of this Act."; and

16 USC 1861.

(2) by adding at the end of subsection (d)(1) the following new sentence: "Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 311(d), to release on bond any seized fish or other property or the proceeds from the sale thereof.".

(b) JURISDICTION OF COURTS.—Section 311 of the Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Notwithstanding any other provision of law, after September 30, 1986, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, or forfeitures of property for violations of any provision of this Act—

"(1) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act with respect to that fish or other property; and

"(2) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act.

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Any person assessed a civil penalty for, or convicted of, any violation of any provision of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation concerned.".

SEC. 110. REPEAL.

Section 401 of the Act (16 U.S.C. 1881; relating to the Law of Sea Treaty), and the entry referring to that section in the table of contents of the Act, are repealed.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 406 of the Act (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs:

"(12) $69,000,000 for fiscal year 1986.
"(13) $70,800,000 for fiscal year 1987.
"(14) $72,900,000 for fiscal year 1988.
"(15) $75,000,000 for fiscal year 1989.".

(b) LIMITATIONS REGARDING CERTAIN NOAA FISHERY RESEARCH VESSELS.—During fiscal years 1986 and 1987, the Secretary of Commerce may not replace with chartered fishery survey vessels the fishery research vessels of the National Oceanic and Atmospheric Administration operated by the Atlantic Marine Center, unless a period of 90 days has expired after the Secretary has submitted to Congress a full and complete statement (including relevant supporting studies) concerning the proposed chartering and the reasons therefor.

SEC. 112. CLERICAL AMENDMENTS.

Section 3(4) of the Act (16 U.S.C. 1802(4)) is amended—

(1) by striking out "Artica islandica" in the listing of mollusks and inserting in lieu thereof "Arctica islandica"; and

(2) by striking out "Hippiospongia canaliculata" in the listing of sponges and inserting in lieu thereof "Spongia cheiris".

SEC. 113. DIRECTIONS REGARDING FISHERY MANAGEMENT COUNCIL MEMBERSHIP.

Notwithstanding section 302 of the Act (16 U.S.C. 1852) and effective on and after the date of the enactment of this Act, the Secretary shall take action to ensure, to the extent practicable, that those persons dependent for their livelihood upon the fisheries within the respective jurisdictions of the Regional Fishery Management Councils are fairly represented as voting members of the Councils. 16 USC 1852 note.

TITLE II—FISH AND SEAFOOD PROMOTION

Fish and Seafood Promotion Act of 1986.

SEC. 201. SHORT TITLE.

16 USC 4001 note.

This title may be cited as the "Fish and Seafood Promotion Act of 1986".

SEC. 202. FINDINGS.

16 USC 4001.

The Congress finds that—

(1) the commercial fishing industry of the United States significantly contributes to the national economy, and could 100 STAT. 3716 make a greater contribution if fish resources within the United States Exclusive Economic Zone were more fully utilized;

(2) the commercial fisheries of the United States provide significant employment in coastal areas and in processing and distribution centers;

(3) fish contribute an important nutritional component to the American diet;

(4) increased consumption of seafood in the United States could significantly lower the risk of many cardiovascular diseases;

(5) Federally supported development programs for commercial fisheries are unable to meet present and future marketing needs;

(6) many fish species are underutilized by the United States fishing industry because of underdeveloped markets; and

(7) the United States fishing industry has the potential to expand greatly its contribution to interstate and foreign commerce, favorably affecting the balance of trade.

SEC. 203. PURPOSE.

Business and industry.
16 USC 4002.

The purpose of this title is to—

(1) strengthen the competitive position of the United States commercial fishing industry in the domestic and international marketplace;

(2) encourage the development and utilization of all species of fish available for harvest by the United States fishing industry;

(3) encourage the utilization of domestically-produced fish through enhancement of markets, promotion, and public relations;

(4) help the United States fishing industry develop methods to improve quality and efficiency in the marketplace;

(5) educate and inform consumers on the use of fish;

(6) develop better coordination of fisheries marketing and promotion activities with commercial fisheries research and development programs; and Research and development.

(7) educate and inform the public about the nutritional value of fish in the diet.

SEC. 204. DEFINITIONS.

16 USC 4003.

As used in this title, the term—

(1) "consumer education" means actions undertaken to inform consumers on matters related to the consumption of fish and fish products;

(2) "council" means a seafood promotional council established under section 210 of this title;

(3) "fish" means finfish, mollusks, crustaceans, and all other forms of aquatic animal life used for human consumption; the term does not include marine mammals and seabirds;

(4) "Fund" means the Fisheries Promotional Fund established in section 209 of this title;

(5) "harvester" means any individual who is in the business of catching or growing fish for purposes of sale;

(6) "importer" means any person in the business of importing fish or fish products into the United States from another country for commercial purposes or who acts as an agent, broker, or consignee for any person or nation that produces, processes or markets fish or fish products outside of the United States for sale or other commercial purpose in the United States;

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(7) "marketer" means any person who is in the business of selling fish or fish products in the wholesale, retail, or restaurant trade, but whose primary business function is not the processing or packaging of fish or fish products in preparation for sale;

(8) "marketing and promotion" means an activity aimed at encouraging the consumption of fish or fish products or expanding or maintaining commercial markets for fish or fish products;

(9) "member" means any person serving on the National Council or on any council;

(10) "National Council" means the National Fish and Seafood Promotional Council established in section 205 of this title;

(11) "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any private entity organized or existing under the laws of the United States or any State, commonwealth, territory or possession of the United States;

(12) "processor" means any person who is in the business of preparing or packaging fish or fish products (including fish of the processor's own harvesting) for sale;

(13) "receiver" means any person who owns fish processing vessels and any person in the business of acquiring fish directly from harvesters;

(14) "research" means any type of research designed to advance the image, desirability, usage, marketability, production or quality of fish and fish products;

(15) "sector" means—

(A) the sector consisting of harvesters;

(B) the sector consisting of importers;

(C) the sector consisting of marketers;

(D) the sector consisting of processors;

(E) the sector consisting of receivers; or

(F) the consumer sector consisting of persons professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products;

(16) "Secretary" means the Secretary of Commerce, or the Secretary's designee; and

(17) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory, possession, or commonwealth of the United States.

16 USC 4004.

SEC. 205. ESTABLISHMENT OF THE NATIONAL COUNCIL.

(a) Establishment.—There is established the National Fish and Seafood Promotional Council.

(b) Composition of the National Council.—(1) The National Council shall be composed of the Secretary, who shall be a nonvoting member, and fifteen voting members appointed by the Secretary.

(2) Nominations for appointees shall be submitted in a manner prescribed by the Secretary.

(c) REGIONAL REPRESENTATION.—The National Council shall be comprised of regional representation from the Northeast, Southeast, Pacific, and Alaska regions. The Northeast region shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Southeast region shall consist of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands. The Pacific region shall consist of the States of Idaho, Washington, Oregon, California, and Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. The Alaska region shall consist of the State of Alaska.

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(d) VOTING MEMBERS.—(1) The voting members of the National Council shall be—

(A) three members who reside in or do substantial fishing industry business in the Northeast region;

(B) three members who reside in or do substantial fishing industry business in the Southeast region;

(C) three members who reside in or do substantial fishing industry business in the Pacific region;

(D) three members who reside in or do substantial fishing industry business in the Alaska region;

(E) two members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries and who are not residents of the states of the Alaska, Pacific, Southeast, or Northeast regions; and

(F) one member-at-large who is either a person professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products or a person who is a member of an organized labor union and has expertise in the United States fisheries.

(2) Of the members appointed pursuant to each of paragraphs (1)(A) through (D) of this subsection, one shall be a harvester, one shall be a processor or a receiver, and one shall be a marketer.

(e) TERM OF OFFICE.—Members of the National Council shall be appointed for a term of 4 years. A vacancy in the National Council shall not affect its ability to function. The Secretary shall appoint a new member within sixty days to fill a vacancy in an unexpired term. Any member may remain on the National Council beyond that member's term until a successor is appointed.

(f) CHAIRMAN.—The National Council shall annually elect a Chairman by a majority of those voting, if a quorum is present. Ten members of the National Council shall constitute a quorum, but a lesser number may hold hearings.

(g) FIRST MEETING.—The National Council shall first meet within one hundred and eighty days after the date of enactment of this Act.

(h) COMPENSATION OF MEMBERS.—Members of the National Council shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5, United States Code, for reasonable travel costs and expenses incurred in performing their duties as members of the National Council.

SEC. 206. FUNCTIONS AND DUTIES OF THE NATIONAL COUNCIL.

16 USC 4005.

(a) FUNCTIONS AND DUTIES.—The National Council shall—

(1) prepare and submit to the Secretary, for the Secretary's review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the National Council for the following year, including plans to coordinate the activities of councils established under section 210 of this title;

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(2) prepare and submit to the Secretary, for the Secretary's review and approval, an annual budget of the anticipated ex-

penses and disbursements of the National Council, including probable costs of consumer education, research, and other marketing and promotion plans or projects, and referenda under section 210 of this title;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the National Council, subject to the Secretary's right to review or inspect such records;

(4) maintain such books and records as the Secretary determines appropriate; and

(5) prepare and submit to the Secretary from time to time such reports or proposals as the Secretary or the National Council determines appropriate for furthering the purposes and policies of this title.

(b) ANNUAL PLAN.—Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish and fish products;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish and fish products; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing promotion activities.

Patents and trademarks. Labeling. Fraud.

(c) PROHIBITION ON CERTAIN REFERENCES.—Consumer education and other marketing and promotion activities of the National Council shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or fish products or with respect to the quality, value, or use of any competing product or group of products. In addition, the National Council may not promote the consumption or purchase of a single or group of similar fish species (such as members of the same genera); except that the Council may use illustrations of a single or group of similar fish species in the course of promoting the generic consumption of fish and fish products.

5 USC 5332.

(d) EXECUTIVE DIRECTOR.—The National Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service Level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, United States Code, with the approval of the National Council, select and employ additional staff as necessary.

(e) FUNDING OF REFERENDUM.—The National Council may enter into agreements with applicants proposing to establish a council under section 210 of this title for the purposes of funding a referendum establishing the council. The National Council may enter into agreements with the councils established under section 210 of this title for the purpose of funding a referendum to establish quality standards, or a referendum to terminate any such council.

(f) AGREEMENTS.—The National Council may enter into agreements to develop and carry out activities authorized under this title.

(g) TERMINATION OF NATIONAL COUNCIL.—The National Council shall cease to exist on October 1, 1990.

16 USC 4006.

SEC. 207. DUTIES OF THE SECRETARY WITH REGARD TO THE NATIONAL COUNCIL.

(a) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) within sixty days after its submission by the National Council, review the annual marketing and promotion plan and budget and, if the Secretary determines that such plan and budget are in accordance with the purposes and policies of this title, approve such plan and budget;

(2) administer the Fund and, in accordance with subsection (b) of this section, withdraw from the Fund such sums as are necessary to carry out the National Council's approved marketing and promotion plan and budget;

Regulations.

(3) promulgate regulations necessary to carry out the purposes and policies of this title;

(4) provide such administrative assistance as the National Council may require for purposes of its initial organization and operation; and

(5) make all appointments to the National Council within ninety days after the date of enactment of this Act.

(b) WITHDRAWAL OF FUNDS.—The Secretary shall make withdrawals of sums from the Fund under this section at the request of the National Council, unless the Secretary determines that the purposes for which such sums are requested are not reasonably likely to further the purposes and policies of this title.

SEC. 208. VOLUNTARY PAYMENTS.

16 USC 4007.

Any person may make voluntary payments to assist the National Council to carry out its annual marketing and promotion plan and annual budget. The Secretary shall deposit such payments into the Fund.

SEC. 209. ESTABLISHMENT OF FISHERIES PROMOTIONAL FUND.

16 USC 4008.

(a) ESTABLISHMENT OF THE FUND.—There is established in the Treasury of the United States a Fisheries Promotional Fund. The Fund shall be available, to the extent provided for in appropriation Acts, for the purpose of making payments to carry out the annual marketing and promotion plan and annual budget of the National Council under this title.

(b) DEPOSITS.—There shall be deposited in the Fund—

(1) the moneys transferred to the Fund under section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b));

(2) payments made voluntarily pursuant to section 208 of this title; and

(3) receipts from investments made under subsection (c) of this section.

(c) DEPOSITS AND INVESTMENTS.—Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury, or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited in the Fund.

(d) AUTHORIZATION.—There are authorized to be appropriated from the Fund, for the purposes of carrying out the annual marketing and promotion plan and annual budget of the National Council under this title, such sums as are deposited in the Fund under subsection (b) of this section in each fiscal year beginning in fiscal year 1987 through fiscal year 1990.

100 STAT. 3721

(e) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—Subsection (b) of section 2 of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)), is amended—

(1) by inserting "(1)" before "The Secretary of Agriculture";

(2) by striking out "separate fund" and all that follows thereafter and inserting in lieu thereof the following: "separate fund only for—

"(A) use by the Secretary—

Research and development.

"(i) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and

"(ii) to implement the national fisheries research and development program provided for under subsection (d); and

"(B) the provision of moneys, subject to paragraph (2), to carry out the purposes of the Fisheries Promotion Fund established under section 208(a) of the Fish and Seafood Promotion Act of 1986."; and

Ante, p. 3720.

(3) by adding at the end thereof the following new paragraph:

"(2) There are transferred from the fund established under paragraph (1) to the Fisheries Promotion Fund referred to in paragraph (1)(B) $750,000 in fiscal year 1987, $3,000,000 in each of fiscal years 1988 and 1989, and $2,000,000 in fiscal year 1990.".

16 USC 4009.

SEC. 210. ESTABLISHMENT OF A COUNCIL.

(a) APPLICATION.—An application for a charter for a seafood marketing council for one or more species of fish and fish products of that species may be filed by persons who meet the requirements specified in accordance with subsection (b)(6) of this section.

Regulations.

(b) FORM OF APPLICATION.—An application for a charter for a council shall be made by filing with the Secretary the text of a proposed charter in such form as shall be prescribed by regulation by the Secretary. The text of a proposed charter must contain such information as the Secretary considers necessary or appropriate for carrying out the provisions of this title, including—

(1) the name of the council and a provision proclaiming its establishment;

(2) a declaration of the purposes and objectives of the council;

(3) a description of the species of fish and fish products for which the council will implement marketing and promotion plans under section 211 of this title;

(4) the identification of each sector and the number and terms of representatives of each sector that will be represented as voting members of the council;

(5) the identification of those sectors (including the sector consisting of harvesters, the sector consisting of receivers, and, if subject to assessment, the sector consisting of importers) subject to a referendum to establish a council under subsection (e) of this section;

(6) a specification for each sector described under paragraph (5) of this subsection of the minimum requirements, as measured by income, volume, or other relevant factors, that a person engaging in business in the sector must meet in order to participate in a referendum;

(7)(A) a description of the procedures for determining assessment rates under section 213 of this title;

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(B) the proposed rate or rates that will be imposed by the council on receivers and, if subject to assessment, importers during its first year of operation;

(C) the maximum amount an assessment rate for any period may be raised above the rate applicable for the immediately preceding period; and

(D) the maximum rate or rates that can be imposed by a council on receivers or importers during the operation of the council;

(8) a provision setting forth the definition of a quorum for making decisions on council business and the procedures for selecting a chairman of the council;

(9) a provision setting forth the voting procedures by which votes may be cast by proxy; and

(10) such other provisions relating to administration of the council as the Secretary considers necessary.

The text of a proposed charter shall be accompanied by a document identifying, to the extent practicable by address of place of business, the persons (hereinafter referred to as "sector participants") that are considered by the applicants to meet the requirements specified in paragraph (6) of this subsection. The text of a proposed charter shall include provisions setting forth procedures for providing refunds to those sector participants subject to assessment under section 213 of this title, and may also include provisions which establish a maximum limit on the amount that any one sector participant may be required to pay under an assessment for any period.

(c) CONTENTS OF CHARTER.—The Secretary may not approve a proposed charter filed under subsection (a) of this section unless such charter provides that—

(1) the council will have voting members representing the harvesting, receiving and, if subject to assessment, importing sectors; and

(2) the members of the council shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the council.

(d) **Review of Charter.**—(1) Within 180 days of the receipt of an application to establish a council, the Secretary shall—

(A) identify, to the extent practicable, those sector participants that meet the requirements for eligibility to participate in the referendum under subsection (e) of this section;

(B) determine, to the extent practicable, if the charter is accompanied by a petition comprised of the signatures or corporate certifications, as the case may be, of no less than three sector participants in each sector identified in accordance with subsection (b)(5) of this section who collectively accounted for, in the twelve-month period immediately preceding the month in which the application was filed, not less than 10 percent of the value of the fish or fish products described in accordance with subsection (b)(3) of this section that were handled by each such sector during that period; and

(C) determine if the proposed charter is consistent with the provisions of this title and any other applicable law.

(2) If any negative determination is made under paragraph (1) of this subsection regarding a proposed charter, the Secretary shall advise in writing the sector participants who made the application of the reasons for such determination. A corrected application may be submitted thereafter to the Secretary for approval.

(e) **Conduct of Referendum.**—(1) Upon making affirmative determinations under subsection (d)(1) of this section regarding a proposed charter, the Secretary, within 90 days after the date of the last of such determinations, shall conduct a referendum on the adoption of the proposed charter among all sector participants identified in accordance with subsection (d)(1)(A) of this section. The Secretary shall by order establish the council and approve the proposed charter, if the referendum votes which are cast in favor of the proposed charter constitute a majority of the sector participants voting in each sector and the majority collectively accounts for, in the twelve-month period immediately preceding the month in which the proposed charter was filed under subsection (a) of this section, at least sixty-six percent of the value of the fish and fish products described in accordance with subsection (b)(3) of this section that were handled by that sector during such period.

(2) Not less than thirty days prior to holding a referendum under this subsection, the Secretary shall—

(A) publish (by such means as will result in wide publicity in regions affected by the proposed charter) the text of the proposed charter and a list of those sector participants eligible to vote in the referendum; and

(B) provide for public comment, including the opportunity for a public meeting.

(3)(A) The Secretary shall pay all costs of a referendum which establishes a council under this subsection. Within two years after a council is established the council shall reimburse the Secretary for any expenses incurred for the conduct of the referendum from assessments collected by the council. Prior to the holding of a referendum under this subsection, the Secretary shall require the applicants to post a bond or other security acceptable to the Secretary, in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of the referendum, and shall immediately recover such amount if a referendum fails to result in the establishment of a council.

(B) As used in this paragraph, the term "expenses incurred for the conduct of the referendum" does not include salaries of Government employees or other administrative overhead, but is limited to those additional direct costs incurred in connection with conduct of the referendum.

(f) NOMINATIONS.—(1) Within thirty days after a council is established under subsection (e) of this section, the Secretary shall solicit from the sectors represented on the council nominations for members of the council. If the harvesters and receivers represented on the council are engaged in business in two or more regions of the United States, the nominations made under this paragraph, and the appointments to the council made under paragraph (3) of this subsection, must, to the extent practicable, result in equitable representation for the constituent regions.

(2) No person is eligible for nomination or appointment as a member of a council unless such person is knowledgeable and experienced with regard to the activities of, and is or has been actively engaged in the business of, the sector which such person will represent on the council.

(3) The Secretary shall, within sixty days after the end of the thirty-day period referred to in paragraph (1) of this subsection, appoint the members of the council from among the nominees.

(4) A vacancy on a council shall be filled, within sixty days after

the vacancy occurs, in the same manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(5) The Secretary shall remove any member of a council if the council concerned first recommends, by not less than two-thirds of its members, removal for cause. Such a recommendation of a council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based.

(g) NATURE OF A COUNCIL.—A council is not an instrumentality of the United States Government.

16 USC 4010.

SEC. 211. FUNCTIONS AND POWERS OF COUNCILS.

(a) ACTIVITIES OF A COUNCIL.—(1) Each council shall—

(A) Adopt a seal which shall be judicially noticed;

(B) implement all terms of its charter;

(C) prepare and submit to the Secretary, for review and approval under section 212(a)(1) of this title, a marketing and promotion plan and amendments to such plan which contain descriptions of the projected consumer education, research, and other marketing and promotion activities of the council;

(D) implement and administer an approved marketing and promotion plan and amendments to such plan;

(E) determine the assessments to be made under section 213 of this title and administer the collection of such assessments to finance council expenses described in paragraph (2) of this subsection;

Reports.

(F) receive, investigate and report to the Secretary accounts of violations of rules or orders relating to assessments collected under section 213 of this title, or quality standard requirements established under subsection (c) of this section;

(G) prepare and submit to the Secretary, for review and approval under section 212(a)(1) of this title, a budget (on a fiscal year basis) of the anticipated expenses and disbursements of the council, including—

(i) all administrative and contractual expenses;

(ii) the probable costs of consumer education, research, and other marketing and promotion plans or projects;

(iii) the costs of the collection of assessments; and

(iv) the expense of repayment of the costs of each referendum conducted in regard to the council;

Records.
Reports.

(H) maintain books and records, prepare and submit to the Secretary such reports from time to time as may be necessary for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it, and cause a complete audit report to be submitted to the Secretary at the end of each fiscal year;

(I) reimburse the Secretary for the expenses incurred for the conduct of the referendum to establish the council or any subsequent referendum to terminate the council that fails; and

(J) prepare and submit to the Secretary from time to time such reports or proposals as the council determines appropriate to further the purposes of this title.

Reports.

(2) Funds collected by a council under section 213 of this title shall be used by the council for—

(A) research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products;

(B) other expenses, as described in subsection (a)(1)(G) of this section;

(C) such other expenses for the administration, maintenance, and functioning of the council as may be authorized by the Secretary;

(D) any reserve fund established under subsection (b)(5) of this section and any administrative expenses incurred by the Secretary specified as reimbursable under this title.

(3) Marketing and promotion plans and amendments to such plans prepared by a council under subsection (a)(1)(C) of this section shall be designed to increase the general demand for fish and fish products described in accordance with section 210(b)(3) of this title by encouraging, expanding, and improving the marketing, promotion and utilization of such fish and fish products, in domestic or foreign markets, or both, through consumer education, research, and other marketing and promotion activities.

Patents and trademarks.
Labeling.
Fraud.

(4) Consumer education and other marketing and promotion activities carried out by a council under a marketing and promotion plan and amendments to such plan may not contain references to any private brand or trade name and shall avoid the use of deceptive acts or practices in promoting fish or fish products or with respect to the quality, value, or use of any competing product or group of products.

(b) Authority of a Council.—A council may—

(1) sue and be sued;

(2) enter into contracts;

(3) employ and determine the salary of an executive director who may, with the approval of the council, employ and determine the salary of such additional staff as may be necessary;

(4) collaborate with other councils and with the National Council in establishing and implementing a national marketing and promotion plan for one or more species of fish or fish products; and

(5) establish a reserve fund from monies collected and received under section 213 of this title to permit an effective and sustained program of research, consumer education, and other marketing and promotion activities regarding the quality and marketing of fish and fish products in years when production and assessment income may be reduced, but the total reserve fund may not exceed the amount budgeted for the current fiscal year of operation.

(c) Quality Standards.—(1) A council may develop and submit to the Secretary for approval, or upon the request of a council the Secretary shall develop, quality standards for a fish or fish product described in accordance with section 210(b)(3) of this title. Any quality standard developed under this paragraph shall be consistent with the purposes of this title.

(2) A quality standard developed under paragraph (1) of this subsection may be adopted by a council by a majority of the members of the council if first approved, in a referendum conducted by the council, by a majority of the sector participants of the sector concerned voting and the majority collectively accounted for, in the twelve-month period immediately preceding the month in which the referendum is held, not less than sixty-six percent of the value of the

100 STAT. 3726 fish or fish products described in accordance with section 210(b)(3) of this title that were handled by that sector during such period.

(3) With respect to a quality standard adopted under paragraph (2) of this subsection, the council shall develop and file with the Secretary an official identification in the form of a symbol, stamp, label, or seal that will be used to indicate that a fish or fish product meets the quality standard at the time the official identification is affixed to the fish or fish product, or is affixed to or printed on the packaging material of the fish or fish product.

Regulations.

(4) The Secretary shall establish by regulation procedures for the use of an official identification filed with the Secretary under paragraph (3) of this subsection. Misuse of an official identification established under this section shall constitute a violation of this title.

(5) Prior to issuing final regulations under paragraph (4) of this subsection, the Secretary shall—

(A) publish the proposed regulations by such means as will result in wide publicity in affected regions; and

(B) provide for public comment and the opportunity for a public hearing.

(6) A council may receive, investigate and report to the Secretary accounts of violations of regulations issued under paragraph (4) of this subsection.

(7) Any regulation issued under paragraph (4) of this subsection shall be repealed immediately by the Secretary upon the termination under section 216 of this title of the council that developed the official identification to which the regulations apply.

(8) The procedures applicable to the adoption and the taking effect of a quality standard developed under this subsection also apply to a subsequent amendment or the termination of such standard.

(d) Amendment of a Charter.—A council may submit to the Secretary amendments to the text of the council's charter. Any proposed amendments to a charter shall be approved or disapproved in the same manner as the original charter was approved under section 210 (d) and (e) of this title, with the exception of section 210(d)(1)(B).

16 USC 4011.

SEC. 212. FUNCTIONS AND POWERS OF THE SECRETARY.

(a) Duties of the Secretary.—In addition to the duties prescribed under section 210 of this title, the Secretary shall—

(1) review, for consistency with the provisions of this title and other applicable law, and approve or disapprove, marketing and promotion plans and budgets within sixty days after their submission by a council;

(2) immediately notify a council in writing of the disapproval of a marketing and promotion plan or budget, together with reasons for such disapproval;

(3) issue orders and amendments to such orders that are necessary to implement quality standards under section 211(c) of this title;

Regulations.

(4) promulgate regulations necessary to carry out the purposes of this title;

(5) enforce the provisions of this title, as provided under section 217 of this title; and

(6) make all appointments to councils in accordance with section 210(f) of this title.

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(b) Assistance.—The Secretary may provide, on a reimbursable or other basis, such administrative or technical assistance as a council may request for purposes of the initial organization and subsequent operation of the council.

16 USC 4012.

SEC. 213. ASSESSMENTS.

(a) Authority.—A council shall impose and administer the collection of the assessments that are necessary to pay for all expenses incurred by the council in carrying out its functions under this title.

(b) METHOD OF IMPOSITION.—(1) Assessments shall be imposed on sector participants in the receiving sector or the importing sector, or both, as specified in an approved council charter.

(2) An assessment on sector participants in the receiving sector shall be—

Vessels.

(A) except for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 210(b)(3) of this title when purchased by such participants from fish harvesters; and

(B) for an owner of a fish processing vessel, in the form of a percentage of the value of the fish described in accordance with section 210(b)(3) of this title and harvested by such a vessel that is no less than the value of such fish, if such fish had been purchased by a receiver other than an owner of such a vessel.

(3) An assessment on sector participants in the importing sector shall be in the form of a percentage of the value, as determined for the purposes of the customs laws, of the fish or fish products described in accordance with section 210(b)(3) of this title when entered, or withdrawn from warehouse for consumption, in the customs territory of the United States by such sector participants.

(c) PROHIBITION ON ASSESSMENT.—A council may not impose an assessment on any person that was not eligible to vote in the referendum establishing the council under section 210(e) of this title by reason of failure to meet the requirements specified under section 210(b)(6) of this title, unless such person, after the date on which such referendum is held, meets the requirements of section 210(b)(6) of this title.

(d) VOLUNTARY PAYMENTS.—Any person may make voluntary payments or in-kind contributions to a council for purposes of assisting the council in carrying out its functions.

(e) DEPOSIT OF FUNDS.—All funds collected or received by a council under this section shall be deposited by the council in an appropriate account in the name of the council specified in its charter. Funds eligible to be collected or received by a council shall be limited to those authorized under this section.

(f) INFORMATION.—(1) Sector participants shall make available to the Secretary such information and data as is necessary for the effectuation, administration or enforcement of this title or any order or regulation issued pursuant to this title. Except as provided in paragraphs (2) and (3) of this subsection, any information obtained in carrying out this subsection shall be kept confidential by all officers and employees of the Department of Commerce, independent accountants and other persons who have access to such information.

(2) If the Secretary or an employee of the United States Government is a party to a suit or administrative action involving an assessment, order, or regulation issued under this title, the Secretary may disclose information obtained under paragraph (1) of this subsection to the extent allowed by the judicial or administrative officer presiding over such suit or action.

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(3) This subsection shall not prohibit—

(A) the issuance of general or statistical statements based upon reports of a number of persons subject to the provisions of this title which do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary of the name of any person violating a requirement relating to an assessment imposed under subsection (a) of this section or to quality standards implemented by the Secretary under section 211(c) of this title, and a statement of the particular provisions of the requirement violated by such person.

Law enforcement and crime.

(4) Any individual who is required to keep information confidential under this subsection and who knowingly violates this subsection shall, upon conviction, be—

(A) subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or both; and

(B) removed from office if an officer or employee of a council or the Department of Commerce.

16 USC 4013.

SEC. 214. PETITIONS.

(a) Filing of Petition.—Any person subject to assessment under section 213 of this title may file a written petition with the Secretary alleging that—

(1) the assessment,

(2) the plan approved under section 212(a)(1) of this title on which the assessment is based, or

(3) any obligation imposed under the plan,

is not in accordance with law and requesting the Secretary to modify or take other appropriate action regarding the assessment or plan.

(b) Form of Petition.—Any such petition shall be in writing and filed within the period prescribed by the Secretary. A person who files a petition under this section shall be given an opportunity for a hearing regarding the petition in accordance with regulations issued by the Secretary. After such a hearing, or if no hearing is requested, after consideration of all documentation and other evidence, the Secretary shall make a ruling upon such petition.

16 USC 4014.

SEC. 215. REFUNDS.

Notwithstanding any other provision of this title, any person who pays an assessment under this title may demand and shall promptly receive from the council a refund of such assessment. A demand for refund must be made in accordance with the procedures, and within such time, as shall be prescribed by the council and approved by the Secretary. Procedures to provide such a refund shall be established before any such assessment may be collected. Such procedures shall allow any person to request a refund for not less than ninety days from such collection, and provide that any such refund shall be made within sixty days after demand for such refund is made.

16 USC 4015.

SEC. 216. TERMINATION OF A COUNCIL.

(a) Petition for Termination.—(1) A petition to terminate a council may be filed with the Secretary by no less than three sector

100 STAT. 3729

participants in any one sector. Any petition filed under this subsection shall be accompanied by a written document explaining the reasons for such petition.

(2) If the Secretary determines that a petition filed under paragraph (1) of this subsection is accompanied by the signatures, or corporate certifications, as the case may be, of no less than three sector participants in a sector referred to in paragraph (1) of this subsection who collectively accounted for, in the twelve-month period immediately preceding the month in which such petition was filed, not less than 20 percent of the value of the fish or fish products described in accordance with section 210(b)(3) of this title that were handled by that sector during such period, the Secretary, within 90 days after such determination, shall conduct a referendum for termination of the council among all sector participants in that sector.

(3) Not less than 30 days prior to holding a referendum under this subsection, the Secretary shall publish a notice of such referendum, including the document explaining the reasons for the petition filed under paragraph (1) of this subsection and any other relevant information the Secretary considers appropriate.

(4) If the referendum votes which are cast in favor of terminating the council constitute a majority of the sector participants voting and the majority, in the period referred to in paragraph (2) of this subsection, collectively accounted for not less than sixty-six percent

of the value of such fish and fish products that were handled during such period by a sector referred to in paragraph (1) of this subsection, the Secretary shall by order terminate the council effective as of a date by which the affairs of the council may be concluded on an orderly basis.

(5) The Secretary initially shall pay all costs of a referendum conducted under this subsection. Prior to conducting such a referendum, the Secretary shall require petitioners to post a bond or other security acceptable to the Secretary in an amount which the Secretary determines to be sufficient to pay any expenses incurred for the conduct of such referendum.

Securities.

(6)(A) If a referendum conducted under this subsection fails to result in the termination of the council, the Secretary shall immediately recover the amount of the bond posted by petitioners under paragraph (5) of this subsection.

(B) If a referendum conducted under this subsection results in the termination of the council, the Secretary shall recover the expenses incurred for the conduct of the referendum from the account established by the council under section 213(e) of this title. If the amount remaining in such account is insufficient for the Secretary to recover all expenses incurred for the conduct of the referendum, the Secretary shall recover the balance of such expenses from the petitioners that posted a bond under paragraph (5) of this subsection.

(b) Payment of Remaining Funds.—If a council is terminated under subsection (a) of this section, the Secretary, after recovering all expenses incurred for the conduct of the referendum under subsection (a) of this section, shall take such action as is necessary and practicable to ensure that moneys remaining in the account established by the council under section 213(e) of this title are paid on a prorated basis to the sector participants from whom those moneys were collected under section 213 of this title.

SEC. 217. ENFORCEMENT.

Courts, U.S.
16 USC 4016.

(a) Authority.—(1) The district courts of the United States shall have jurisdiction specifically to enforce and to prevent and restrain any person from violating any assessment, order or regulation made or issued under this title.

(2)(A) If a council has reason to believe that a person subject to an assessment, order or regulation made or issued under this title is violating such assessment, order or regulation, it may refer the matter to the Secretary.

(B) Except as provided in subparagraphs (C) or (D) of this paragraph, any civil action authorized to be brought under this subsection, when referred by a council under subparagraph (A) of this paragraph, shall be referred to the Attorney General for appropriate action.

(C) If the Secretary believes that the administration and enforcement of the provisions of this title would be adequately served by taking administrative action under subsection (b) of this section or by providing written notice or warning to any person committing a violation of this title, the Secretary is not required to refer such violation to the Attorney General.

(D) Whenever a matter has been referred by a council under subparagraph (A) of this paragraph and the Secretary or the Attorney General fails within 60 days of such referral to take appropriate action, the council may, upon filing notice with the Secretary or Attorney General, as appropriate, and other interested parties, bring an action in its own name.

(b) Recovery of Costs.—(1)(A) When a council brings an action under subsection (a)(2) of this section, the council may recover costs of litigation and, where the action is brought to collect an unpaid assessment, interest from the date the amount became due and payable.

(B) Any person who violates any provision of an order (including a cease and desist order previously issued under this paragraph) or regulation issued by the Secretary under this title, or who fails or refuses to pay, collect, or remit any assessment required under this title, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to, or in lieu of, a civil penalty under this subparagraph, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(C) No penalty shall be assessed, or cease and desist order issued, under this paragraph unless the affected person is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(D) Any order of the Secretary under this paragraph assessing a penalty or imposing a cease and desist order shall be final and conclusive, unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

District of Columbia.

(2)(A) Any person against whom a violation is found under paragraph (1) of this subsection may obtain review of such action in the United States court of appeals for the circuit in which such person resides or has his place of business, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary.

(B) The Secretary shall promptly file in the court a certified copy of the record upon which such violation was found.

(C) The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence or not in accordance with law.

(3)(A) If any person fails to pay a civil penalty under this subsection after it has become final, the Secretary shall refer the matter to the Attorney General.

(B) The Attorney General shall institute appropriate action to recover the amount assessed under this subsection in a district court of the United States.

(C) If, within sixty days after such referral, the Attorney General fails to institute such appropriate action, the council to whose programs the assessment, order or regulation relates may institute an action in its own name.

16 USC 4017.

SEC. 218. INVESTIGATIONS.

(a) Authority to Make Investigations.—The Secretary may make such investigations as the Secretary determines necessary to—

(1) carry out the Secretary's responsibilities under this title; and

(2) determine whether any person has engaged in any act or practice which constitutes a violation of the provisions of this title.

(b) Oaths and Affirmations.—For the purpose of investigations under subsection (a) of this section, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States.

(c) Court Orders.—In case of contumacy or refusal to obey a subpoena issued under this section by any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or has his business, to require the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary to produce records or to give testimony relating to the matter under investigation.

SEC. 219. REPORT.

16 USC 4001 note.

The Secretary shall, not later than March 1, 1989, submit to the Congress a report on the effectiveness of the implementation of this title in achieving the purposes of this title.

TITLE III—INTERJURISDICTIONAL FISHERIES

Interjurisdictional Fisheries Act of 1986.

SEC. 301. SHORT TITLE.

16 USC 4101 note.

This title may be cited as the "Interjurisdictional Fisheries Act of 1986".

100 STAT. 3732

SEC. 302. PURPOSES.

16 USC 4101.

The purposes of this title are—

(1) to promote and encourage State activities in support of the management of interjurisdictional fishery resources; and

(2) to promote and encourage management of interjurisdictional fishery resources throughout their range.

SEC. 303. DEFINITIONS.

16 USC 4102.

For the purposes of this title:

(1) The term "Federal fishery management plan" means a plan developed under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) The term "fishery resource" means finfish, mollusks, crustaceans, and any other form of marine animal or plant life, other than marine mammals and birds.

(3) The term "interjurisdictional fishery resource" means—

(A) a fishery resource for which a fishery occurs in waters under the jurisdiction of one or more States and the exclusive economic zone established by Proclamation Numbered 5030, dated March 10, 1983;

97 Stat. 1557.

(B) a fishery resource for which there exists an interstate fishery management plan; or

(C) a fishery resource which migrates between the waters under the jurisdiction of two or more States bordering on the Great Lakes.

For purposes of applying section 305(a)(3) during fiscal year 1987, a Federal fishery management plan or an interstate fishery management plan for the fishery resource need not be in existence, but a plan of either kind for that resource must be in the development process during that year.

(4) The term "interstate fishery management plan" means a plan for managing fisheries developed and adopted by an interstate commission.

(5) The term "interstate commission" means a commission or other administrative body established by an interstate compact.

(6) The term "interstate compact" means a compact that has been entered into by two or more States, established for the purposes of conserving and managing interjurisdictional fishery resources throughout their range, and consented to and approved by Congress.

(7) The term "project" means a program for research in support of the management of an interjurisdictional fishery resource or an interstate cooperative fishery management agreement.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "State" means any of the several States of the

United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, or the Northern Mariana Islands.

(10) The term "State agency" means any department, agency, commission, or official of a State authorized under the laws of the State to regulate commercial fisheries or enforce laws relating to commercial fisheries.

100 STAT. 3733

16 USC 4103.

SEC. 304. APPORTIONMENT.

(a) Time When Apportionments Made.—Funds appropriated under section 308(a) shall be apportioned by the Secretary among the States on October 1 of each fiscal year, or as soon thereafter as practicable.

(b) Apportionment Formula.—The amount of funds apportioned to each State shall be determined by the Secretary as the ratio which the equally weighted average of the volume and value of fishery resources harvested by domestic commercial fishermen and received within such State during the 3 most recent calendar years for which data satisfactory to the Secretary are available bears to the total equally weighted average of the volume and value of all fishery resources harvested by domestic commercial fishermen received within all of the States during those calendar years.

(c) Limitations.—(1) No State may receive an apportionment under subsection (b) for either fiscal year 1987 or fiscal year 1988 which is less than one-half of one percent of the total amount of funds available for that fiscal year.

(2) For any fiscal year after fiscal year 1988, no State that, under the apportionment formula in subsection (b), has a ratio of one-third of one percent or higher may receive an apportionment for any fiscal year which is less than one percent of the total amount of funds available for that fiscal year.

(3) For any fiscal year after fiscal year 1988, no State may receive an apportionment under this section for any fiscal year if that State's ratio under the apportionment formula in subsection (b) is less than one-third of one percent, unless the State—

(A) is signatory to an interstate fishery compact;

(B) has entered into an agreement with the Secretary or the Secretary of the Interior under which the personnel, services, and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources;

(C) borders one or more of the Great Lakes; or

(D) has entered into an interstate cooperative fishery management agreement and has in effect an interstate fisheries management or interstate fisheries research program.

(4) No State that, under the apportionment formula in subsection (b), has a ratio of less than one-third of one percent and meets any of the requirements set forth in paragraph (1) (A), (B), (C), or (D) may receive an apportionment for any fiscal year which is less than one-half of one percent of the total amount of funds available for apportionment for such fiscal year.

(5) No State may receive an apportionment for any fiscal year under this section which is more than 6 percent of the total amount of funds available for apportionment for such fiscal year.

(d) Unused Apportionments.—Any part of an apportionment for any fiscal year to any State—

(1) that is not obligated during that year;

(2) with respect to which the State notifies the Secretary that it does not wish to receive that part; or

(3) that is returned to the Secretary by the State,

may not be considered to be apportioned to that State and shall be added to such funds as are appropriated pursuant to section 308(a) for the next fiscal year (and shall be treated as having been appropriated for such next year) for apportionment under subsection (a). Any notification or return of funds referred to in paragraph (2) or (3) by a State is irrevocable. 100 STAT. 3734

SEC. 305. STATE PROJECTS.

16 USC 4104.

(a) In General.—(1) Any State may, through its State agency or an interstate commission, submit to the Secretary a proposal for a project which includes full plans, specifications, and cost estimates for such project. The total cost of all items included for engineering, planning, inspection, and unforeseen contingencies in connection with any works to be constructed as part of such a proposed project shall not exceed 10 percent of the total cost of such works, and shall be paid by the State as a part of its contribution to the total cost of the works.

(2) No part of any funds appropriated under any authorization contained in section 308 may be obligated with respect to any project until the proposal for such project has been submitted under paragraph (1) and approved by the Secretary. The Secretary, before approving any proposal for a project, must evaluate the proposal as to—

(A) the soundness of design;

(B) the possibilities of securing productive results;

(C) the minimization of duplication with other research projects in support of the management of interjurisdictional fishery resources and carried out under this title or under any other law or regulation;

(D) the organization and management of the project;

(E) the methods proposed for monitoring and evaluating the success or failure of the project;

(F) the consistency of the project with the purposes of this title specified in section 302; and

(G) such other criteria as the Secretary may prescribe.

(3) The Federal share of the cost of any project conducted under this title shall not exceed 75 percent of the total estimated cost of the project, unless—

(A) the State has adopted an interstate fishery management plan for the resource to which the project applies; or

(B) the State has adopted fishery regulations which the Secretary has determined are consistent with any Federal fishery management plan for the species to which the project applies;

in which case the Federal share shall not exceed 90 percent of the total estimated cost of the project.

(4)(A) If the Secretary approves or disapproves a proposal for a project, the Secretary shall promptly give written notification, including, if disapproved, a detailed explanation of the reasons for the disapproval, to the State agency submitting the proposal or, if the proposal is submitted through an interstate commission, such commission and the State.

(B) For the purposes of this title, funds apportioned under this section to any State shall be treated as having been obligated with respect to a project during the fiscal year in which the written notification of approval required under subparagraph (A) for the project proposal is made.

(b) Restriction.—The expenditure of funds under this title shall be applied only to projects for which a proposal has been approved under subsection (a), except that up to $25,000 each fiscal year may be obligated for a State to carry out an agreement with the Secretary or the Secretary of the Interior under which the personnel, services and equipment of the State and the Federal agency concerned will be made mutually available for the enforcement of Federal and State laws pertaining to the protection of fishery resources. If otherwise applied, such funds shall be replaced by the State before the State may receive any additional funds under this title. 100 STAT. 3735

(c) PAYMENT.—When the Secretary determines that a project carried out under a proposal approved by the Secretary has been completed, or where the Secretary otherwise deems it appropriate, the Secretary shall cause to be paid to the proper authority of the State, or to the official or depository designated by the interstate commission if the State agency specifies that payment is to be made to the interstate commission, the Federal share of the project. Any payment made to an interstate commission shall be charged against the apportionment of the State concerned.

State and local governments.
16 USC 4105.

SEC. 306. PROPERTY.

(a) APPLICATION OF FEDERAL AND STATE LAWS.—All work, including the furnishing of labor and materials, needed to complete any project approved by the Secretary shall be performed in accordance with applicable Federal and State laws under the direct supervision of the State agency, and in accordance with regulations as the Secretary may prescribe.

(b) TITLE.—Title to all property, real and personal, acquired for the purposes of completing any project approved by the Secretary vests in the State.

(c) DISPOSAL.—If a State disposes of any real or personal property acquired under this title, the State shall pay into the Treasury of the United States the amount of any proceeds resulting from the property disposed to the extent of and in the same ratio that funds provided under this title were used in the acquisition of the property. In no case shall the amount paid into the Treasury of the United States under this section exceed the amount of funds provided by this chapter for the acquisition of the property involved.

16 USC 4106.

SEC. 307. REPORTS.

After consultation with the States receiving funds under this title and with any interstate commission involved in carrying out a project under this title, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 90 days after the end of the fiscal year 1988, and each second fiscal year occurring after that fiscal year, a report which contains—

(1) a description of each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(2) a specification of the total amount of funds from the Federal Government and the total amount of funds from each State spent on each project and a law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted;

(3) an assessment of each project and law enforcement effort receiving funds under this title during the last 2 fiscal years ending before such report is submitted to determine whether such project is furthering the purposes of this title; and

100 STAT. 3736

(4) a statement specifying all funds which have been apportioned pursuant to section 305(a) and are available for obligation by a State or the Secretary but which have not been obligated.

16 USC 4107.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title $5,000,000 for each of fiscal years 1987, 1988, and 1989.

(b) ADDITIONAL APPROPRIATIONS.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated to the Department of Commerce $2,500,000 for each of fiscal years 1988 and 1989, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this title; except that—

(1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which the Secretary determines there is a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future; and

(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels.

Amounts appropriated under this subsection shall remain available until expended.

(c) Development of Management Plans.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Department of Commerce $350,000 for each of fiscal years 1988 and 1989 to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77-539 (56 Stat. 267), approved May 4, 1942.

(2) The commission established by the Pacific Marine Fisheries Compact, as consented to and approved by Public Law 80-232 (61 Stat. 419), approved July 24, 1947.

(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81-66 (63 Stat. 70), approved May 19, 1949.

SEC. 309. REPEAL.

The Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779 et seq.) is repealed.

SEC. 310. EFFECTIVE DATE.

16 USC 4101 note.

This title takes effect October 1, 1987.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. NOAA MARINE FISHERIES PROGRAM AUTHORIZATIONS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a), by striking out "and" after "1984,", and by inserting ", $27,382,000 for fiscal year 1986, $28,121,314 for fiscal year 1987, $28,915,392 for fiscal year 1988, and $29,764,234 for fiscal year 1989" immediately after "1985";

(2) in section 3(a), by striking out "and" after "1984,", and by inserting ", $25,933,000 for fiscal year 1986, $26,633,191 for fiscal year 1987, $27,385,248 for fiscal year 1988, and $28,189,171 for fiscal year 1989" immediately after "1985"; and

(3) in section 4(a), by striking out "and" after "1984,", and by inserting ", $11,395,000 for fiscal year 1986, $11,702,665 for fiscal year 1987, $12,033,120 for fiscal year 1988, and $12,386,365 for fiscal year 1989" immediately after "1985".

SEC. 402. ANADROMOUS FISH CONSERVATION ACT AUTHORIZATIONS.

Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking out "and 1985." in paragraph (4) and inserting "1985, and 1986."; and

(2) by adding after paragraph (4) the following:
"(5) $7,702,500 for fiscal year 1987.
"(6) $7,920,000 for fiscal year 1988.
"(7) $8,152,500 for fiscal year 1989.".

SEC. 403. CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT AUTHORIZATIONS.

Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended—

(1) by striking "and" after "1984,"; and

(2) by inserting immediately after "1985" the following: ", 1986, 1987, and 1988".

SEC. 404. ATLANTIC TUNAS CONVENTION ACT OF 1975 AUTHORIZATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended by striking out "year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, and 1986" and inserting "years 1986, 1987, 1988, and 1989".

SEC. 405. GREAT LAKES FISHERY COMMISSION.

(a) Increase in Number of Commissioners.—Section 3 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932) is amended to read as follows:

"Sec. 3. (a)(1) The United States shall be represented on the Commission by 4 Commissioners who shall be appointed by the President and who may not receive compensation for service as Commissioners. Of the Commissioners—

"(A) 1 shall be an official of the United States Government; and

"(B) 3 shall be individuals who reside in different Great Lakes States and who are knowledgeable regarding the fisheries of the Great Lakes, except that 1 of them must also be an official of Great Lakes State.

100 STAT. 3738

"(2) The President shall appoint an alternate Commissioner who shall perform the duties of a Commissioner—

"(A) until a vacancy referred to in subsection (b)(3) is filled; and

"(B) in the event of the absence of a Commissioner from any meeting of the United States Section or the Commission.

"(b)(1) Except as provided in paragraph (2), the term of office of Commissioners appointed under subsection (a)(1)(B) is 6 years.

"(2) Of the Commissioners first appointed under subsection (a)(1)(B) after the date of the enactment of this subsection, 1 shall be appointed for a term of 2 years, 1 shall be appointed for a term of 4 years, and 1 shall be appointed for a term of 6 years.

"(3) Whenever a vacancy occurs among Commissioners appointed under subsection (a)(1)(B), the President shall appoint an individual to fill that vacancy for the remainder of the applicable term.".

16 USC 932 note.

(b) Transition.—The term of office of each United States Commissioner on the Great Lakes Fishery Commission who is serving on the date of enactment of this Act is terminated (except the United States Government official appointed under section 3(a) of the Great Lakes Fishery Act of 1956 (16 U.S.C. 932(a), as in effect before the date of enactment). However, the individuals appointed to those terms shall continue to serve as Commissioners until the President makes appointments under section 3(b)(2) of the Act of 1956 (as added by subsection (a)), which appointments shall be made within 60 days after the date of enactment.

(c) Conforming Amendment.—Section 201 of the Act entitled "An Act to amend the North Pacific Fisheries Act of 1954, and for other purposes", approved October 9, 1972 (22 U.S.C. 2672a) is amended by striking out "the Great Lakes Fishery Commission,".

SEC. 406. NOAA ESTUARINE PROGRAMS OFFICE.

15 USC 1511c.

(a) Establishment.—The Administrator of the National Oceanic and Atmospheric Administration (hereinafter in this section referred to as the "Administrator") shall establish within the Administration an Estuarine Programs Office.

(b) Functions.—The Estuarine Programs Office shall—

(1) develop and implement a national estuarine strategy for the Administration that integrates the research, regulatory, and trusteeship responsibilities of the Administration;

(2) coordinate the estuarine activities of the various organizations within the Administration, including activities in estuarine research and assessment, fisheries research, coastal management, and habitat conservation;

(3) coordinate the estuarine activities of the Administration with the activities of other Federal and State agencies; and

(4) provide technical assistance to the Administrator, to other Federal agencies, and to State and local government agencies in—

(A) assessing the condition of estuaries;

(B) identifying estuaries of critical national or regional importance;

(C) identifying technical and management alternatives for the restoration and protection of estuarine resources; and

100 STAT. 3739

(D) monitoring the implementation and effectiveness of estuarine management plans.

(c) Authorization.—There are authorized to be appropriated to the Administration not to exceed $500,000 for fiscal year 1987, $530,000 for fiscal year 1988, $560,000 for fiscal year 1989, and $600,000 for fiscal year 1990 to carry out the provisions of this section.

SEC. 407. NOAA OFFICERS.

15 USC 1503b.

(a) Under Secretary.—There shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere who shall serve as the Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

Post, p. 3740.
15 USC 1507c.

(b) Assistant Secretary.—There shall be in the Department of Commerce, in addition to the Assistant Secretaries of Commerce provided by law before the date of enactment of this Act, one additional Assistant Secretary of Commerce who shall have the title Assistant Secretary of Commerce for Oceans and Atmosphere and shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary for Oceans and Atmosphere shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315).

Post, p. 3740.
15 USC 1503b note.

(c) Applicability.—The individual serving on the date of enactment of this Act—

(A) as the Administrator of the National Oceanic and Atmospheric Administration shall also serve as the Under Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under subsection (a) of this section; and

(B) as the Deputy Administrator of the National Oceanic and Atmospheric Administration shall also serve as the Assistant Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed under subsection (b) of this section.

15 USC 1511 note.
President of U.S.
Post, p. 3740.

(d) CHIEF SCIENTIST OF NOAA.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended to read as follows:

"(d) There shall be in the Administration a Chief Scientist of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). The Chief Scientist shall be the principal scientific adviser to the Administrator, and shall perform such other duties as the Administrator may direct. The Chief Scientist shall be an individual

100 STAT. 3740

who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.".

Ante, pp. 591, 708.

(e) CONFORMING AMENDMENTS.—(1) Section 5314 of title 5, United States Code, is amended by striking "Administrator, National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.".

Ante, pp. 856, 867, 868.

(2) Section 5315 of title 5, United States Code, is amended—

(A) by striking "Deputy Administrator, National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Assistant Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration."; and

(B) by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

Ante, p. 814.

(3) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following: "Chief Scientist, National Oceanic and Atmospheric Administration.".

SEC. 408. TRANSFER OF AUTHORITY FOR REIMBURSEMENT UNDER THE FISHERMEN'S PROTECTIVE ACT OF 1967.

Effective October 1, 1986, paragraph (1) of section 7(f) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(f)(1)) is amended to read as follows:

"(1) the term 'Secretary' means the Secretary of State.".

16 USC 742c.

SEC. 409. FISHERIES LOAN FUND.

The third sentence of section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) is amended to read as follows: "Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts.".

SEC. 410. CONVEYANCE AGREEMENT PROVISIONS.

Uniformed services.
Corporations.
Alaska.
43 USC 1601 note.

(a) IN GENERAL.—Under the Agreement dated December 9, 1977, between the Commandant of the Coast Guard and Koniag, Incorporated, a regional native corporation, pursuant to Public Law 92-203 (a copy of which is recorded beginning at Book 44, Page 179 of the Kodiak Recording District, Kodiak, Alaska) and any conveyance made under that Agreement, the rights or title conveyed to Koniag, Incorporated, shall be construed to include the following:

Communications and telecommunications.

(1) Under the Agreement, welding or other equipment or machinery may be operated or maintained on lands conveyed to Koniag, Incorporated, if the equipment or machinery does not cause harmful electromagnetic interference with the Coast Guard Holiday Beach receiver site or is operated or maintained under terms and conditions mutually agreeable to the Coast Guard and Koniag, Incorporated. Harmful electromagnetic interference is defined as radio frequency signals which disrupt or degrade communications reception performance.

(2) The conveyance of the "old shipyard" includes the wharf and all lands of any nature beneath the wharf.

(3) An access and utility easement is intended as part of the conveyance for Parcel 2, known as Cliff Point, which consists of—

(A) a 100-foot wide access easement along the existing access road or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated, and includes the right to construct and operate an access road, bridges, guard rails, and other associated improvements; and

Highways. Bridges.

(B) a 40-foot wide utility easement adjacent to the access easement in paragraph (3)(A) of this subsection or a location that is mutually agreeable to the Coast Guard and Koniag, Incorporated.

(4) The construction, maintenance, and operation of a dock facility or location of any structure or thing on the premises described in section (c) of Schedule 4 of the Agreement is not inconsistent with the easement for the barge landing easement and access to and from the barge landing area reserved by the United States Government (hereinafter referred to in this paragraph as the "Government"), if the dock facility is constructed or the structure or thing is located as approved by the Government. Approval by the Government is deemed to be granted if a proposal for the construction and location of the dock facility, structure, or thing is submitted to the Government and—

(A) the Government does not respond within 60 days of receipt of the proposal; or

(B) if a response with recommendations for modification is submitted by the Government within 60 days of receipt of the proposal, the proposal is modified in a manner necessary to reasonably satisfy the requirements of the Government—

(i) to use the dock facility for a barge landing area as contemplated by the easement; and

(ii) to permit access to and from the barge loading area to public highways for the transportation of materials as specified in Agreement.

(b) Application.—All rights or conveyances confirmed by this section are subject to the sanctions in the Agreement referred to in subsection (a).

Uniformed services.

(c) Implementation.—The Commandant of the Coast Guard or other appropriate Federal officer shall issue the appropriate corrective conveyance and perform any other appropriate ministerial or official act necessary to carry out the purposes of this section within 60 days after the date of the enactment of this title.

SEC. 411. INCIDENTAL TAKING OF DEPLETED MARINE MAMMALS.

(a) Amendment of the Marine Mammal Protection Act.—Paragraph (5)(A) of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)(A)) is amended—

(1) by striking "that is not depleted";

(2) in clause (i)—

(A) by striking "its habitat, and" and inserting in lieu thereof "will not have an unmitigable adverse impact"; and

(B) by inserting "or, in the case of a cooperative agreement under both this Act and the Whaling Convention Act of 1949 (16 U.S.C. 916 et seq.), pursuant to section 112(c)" immediately after "or section 109(f)"; and

(3) in clause (ii)(I), by inserting ", and on the availability of such species or stock for subsistence uses" immediately after "significance".

(b) Statement by the Secretary.—Paragraph 4 of section 7(b) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by inserting "and" after the semicolon at the end of subparagraph (B); and

(3) by inserting after subparagraph (B) the following subparagraph:

"(C) if an endangered species or threatened species of a marine mammal is involved, the taking is authorized pursuant to section 101(a)(5) of the Marine Mammal Protection Act of 1972;";

Ante, p. 3741.

(4) by striking "and" at the end of clause (ii);

(5) by redesignating clause (iii) as clause (iv) and by striking "clause (ii)" in that clause and inserting in lieu thereof "clauses (ii) and (iii)"; and

(6) by inserting after clause (ii) the following new clause:

"(iii) in the case of marine mammals, specifies those measures that are necessary to comply with section 101(a)(5) of the Marine Mammal Protection Act of 1972 with regard to such taking, and".

(c) EXEMPTIONS.—Subsection (o) of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536(o)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", sections 101 and 102 of the Marine Mammal Protection Act of 1972," immediately before "or any regulation"; and

16 USC 1371, 1372.

(B) by striking "either" and inserting in lieu thereof "any"; and

(2) in paragraph (2)—

(A) by striking "(b)(4)(iii)" and inserting in lieu thereof "(b)(4)(iv)"; and

(B) by inserting "prohibited" immediately before "taking of the species".

Approved November 14, 1986.

LEGISLATIVE HISTORY—S. 991:

SENATE REPORTS: No. 99-67 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 2, considered and passed Senate.
Vol. 132 (1986): Aug. 12, considered and passed House, amended.
Oct. 15, Senate concurred in House amendments with amendments.
Oct. 16, House concurred in Senate amendments with amendments.
Oct. 18, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Nov. 14, Presidential statement.

DEFENSE ACTS

Public Law 99-331
99th Congress

100 STAT. 510

An Act

To extend until June 30, 1986, the date on which certain limitations become effective with respect to obligations that may be made from the Military Personnel accounts of the Department of Defense for fiscal year 1986.

May 31, 1986
[S. 2460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third proviso of section 8103 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1221), relating to obligations from Military Personnel accounts for fiscal year 1986, is amended by striking out "May 1, 1986" and inserting in lieu thereof "June 30, 1986".

Approved May 31, 1986.

LEGISLATIVE HISTORY—S. 2460:

CONGRESSIONAL RECORD, Vol. 132 (1986):
May 15, considered and passed Senate.
May 22, considered and passed House.

Public Law 99-348
99th Congress

100 STAT. 682

An Act

To amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes.

July 1, 1986
[H.R. 4420]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Military Retirement Reform Act of 1986.
Armed Forces.
10 USC 1401 note.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 10, UNITED STATES CODE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Military Retirement Reform Act of 1986".

(b) REFERENCES TO TITLE 10.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 10, United States Code; table of contents.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

Sec. 101. Retired pay multiplier.
Sec. 102. Adjustments of retired and retainer pay to reflect changes in the Consumer Price Index.
Sec. 103. Restoral at age 62 of retired pay multiplier and cost-of-living adjustments.
Sec. 104. Consolidation of retired pay base provisions.
Sec. 105. Rules of construction for purposes of computing retired pay.
Sec. 106. Years of service for computing retired pay.

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

Sec. 201. Retired pay computed under subtitle A.
Sec. 202. Members of the Army.
Sec. 203. Members of the Navy and Marine Corps.
Sec. 204. Members of the Air Force.
Sec. 205. Members of the Coast Guard.
Sec. 206. Commissioned officers of the National Oceanic and Atmospheric Administration.
Sec. 207. Commissioned officers of the Public Health Service.

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

Sec. 301. Survivor Benefit Plan annuities.
Sec. 302. Report on reserve retirement system.
Sec. 303. Definition.
Sec. 304. Technical and conforming amendments.
Sec. 305. Codification of permanent limitations on retired and retainer pay provided in appropriation Acts.
Sec. 306. Repeal of limitation on payments to accrual fund for fiscal year 1986.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

Sec. 401. Authority for obligation of certain unauthorized fiscal year 1986 defense appropriations.
Sec. 402. Limitation on obligation of certain unauthorized appropriations.
100 STAT. 683 Sec. 403. Authorized military construction project.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Under Secretary of Defense for Acquisition.
Sec. 502. Limitation on expenditure of funds to procure T-46 trainer aircraft.
Sec. 503. Postponement of a certain Department of Defense contract.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

SEC. 101. RETIRED PAY MULTIPLIER

Chapter 71 (relating to computation of retired pay) is amended by adding at the end the following new section:

10 USC 1409

"§ 1409. Retired pay multiplier

"(a) Retired Pay Multiplier for Regular-Service Nondisability Retirement.—In computing—

"(1) the retired pay of a member of a uniformed service who is retired under any provision of law other than—

10 USC 1201 *et seq.*

"(A) chapter 61 of this title (relating to retirement or separation for physical disability); or

10 USC 1331 *et seq.*

"(B) chapter 67 of this title (relating to retirement for non-regular service); or

"(2) the retainer pay of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title,

Post, p. 696.

the retired pay multiplier (or retainer pay multiplier) is the percentage determined under subsection (b).

"(b) Percentage.—

"(1) General rule.—Subject to paragraphs (2) and (3), the percentage to be used under subsection (a) is the product (stated as a percentage) of—

"(A) 2½, and

"(B) the member's years of creditable service (as defined in subsection (c)).

"(2) Reduction applicable to new-retirement members with less than 30 years of service.—In the case of a member who first became a member of a uniformed service after July 31, 1986, has less than 30 years of creditable service, and is under the age of 62 at the time of retirement, the percentage determined under paragraph (1) shall be reduced by—

"(A) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

"(B) $\frac{1}{12}$ of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year.

"(3) 75 PERCENT LIMIT.—In the case of a member with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent.

"(c) YEARS OF CREDITABLE SERVICE DEFINED.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

SEC. 102. ADJUSTMENTS OF RETIRED AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

(a) IN GENERAL.—Section 1401a (relating to adjustments in retired pay to reflect changes in the Consumer Price Index) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following: 100 STAT. 684

"(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

"(1) IN GENERAL.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of members and former members entitled to that pay in accordance with paragraphs (2) and (3).

"(2) PRE-AUGUST 1, 1986 MEMBERS.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the base index.

"(3) POST-AUGUST 1, 1986 MEMBERS.—If the percent determined under paragraph (2) is greater than 1 percent, the Secretary shall increase the retired pay of each member who first became a member on or after August 1, 1986, by the difference between—

"(A) the percent determined under paragraph (2); and

"(B) 1 percent.

"(4) REGULATIONS.—Any increase in retired pay under this subsection shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(d) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the base index, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(e) PRO RATING OF INITIAL ADJUSTMENT.—Notwithstanding subsection (b), the retired pay of a member of an armed force who first became a member of a uniformed service on or after August 1, 100 STAT. 685 1986, shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member becomes entitled to retired pay only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the member became entitled to retired pay.".

(b) DEFINITIONS.—Such section is further amended—

(1) by striking out the second sentence of subsection (a); and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'price index' means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

"(2) The term 'base quarter' means the calendar quarter ending on September 30 of each year.

"(3) The term 'base index' means the price index for the base quarter for the most recent adjustment under subsection (b).

"(4) The term 'retired pay' includes retainer pay.

"(h) PRICE INDEX FOR A QUARTER.—For purposes of this section, the price index for a calendar quarter is the arithmetical mean of the price index for the three months comprising that quarter.".

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of such section is amended—

(A) by inserting "PROHIBITION ON RECOMPUTATION TO REFLECT INCREASES IN BASIC PAY.—" after "(a)"; and

(B) by striking out "or retainer".

(2) Subsection (f) of such section is amended—

(A) by inserting "PREVENTION OF PAY INVERSIONS.—" after "(f)"; and

(B) by striking out "or retainer" each place it appears.

SEC. 103. RESTORAL AT AGE 62 OF RETIRED PAY MULTIPLIER AND COST-OF-LIVING ADJUSTMENTS

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1409 (as added by section 101) the following new section:

10 USC 1410

"§ 1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986

"(a) GENERAL RULE.—In the case of a member who first became a member of a uniformed service on or after August 1, 1986, and who becomes entitled to retired pay before the age of 62, the retired pay of such member shall be recomputed, effective on the first day of the first month beginning after the member attains 62 years of age, so as to be the amount equal to—

"(1) the amount of the member's initial unreduced retired pay, increased by

"(2) the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the most recent base quarter ending more than 31 days before the date the member attains 62 years of age, exceeds

"(B) the price index for the calendar quarter immediately before the date the member first became entitled to retired pay.

100 STAT. 686

"(b) **Definitions.**—

"(1) In this section, the term 'initial unreduced retired pay means the amount of retired pay—

"(A) to which the member was entitled when the member first became entitled to retired pay; or

"(B) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, to which the member would have been entitled on the date of the member's retirement without regard to that section. *Ante*, p. 683.

"(2) The definitions in subsection (g), and the provisions of subsection (h), of section 1401a of this title apply to this section.". *Ante*, p. 683.

SEC. 104. CONSOLIDATION OF RETIRED PAY BASE PROVISIONS

(a) **Transfer of Section** 1406.—Section 1406 is transferred to the end of chapter 67, redesignated as section 1338, and amended— 10 USC 1338.

(1) by designating the first sentence as subsection (a) and striking out "chapter 67 of this title" both places it appears therein and inserting in lieu thereof "this chapter"; and

(2) by designating the second sentence as subsection (b).

(b) **Consolidation of Statutes.**—Chapter 71 (relating to the computation of retired pay) is amended by striking out section 1407 and inserting in lieu thereof the following:

"§ 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

10 USC 1406.

"(a) **Use of Retired Pay Base in Computing Retired Pay.**—

"(1) **General rule.**—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service before September 8, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(2) **Exception for recomputation.**—Recomputation of retired or retainer pay to reflect later active duty is provided for under section 1402 of this title without reference to a retired pay base or retainer pay base. *Post*, p. 694.

"(b) **Retirement Under Subtitle** A.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.

"For a member entitled to retired pay under section:	The retired pay base is:
1201 1202 1204 1205	Monthly basic pay[1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher.
1331	Monthly basic pay[2] of highest grade held satisfactory by person at any time in the armed forces.
564 1263 1293 1305	Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade.

100 STAT. 687

"For a member entitled to retired pay under section:	The retired pay base is:
633 634 635 636 1251	**Monthly basic pay[3] of member's retired grade.[4]**

---

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be.

[2] Compute at rates applicable on date when retired pay is granted.

[3] Compute at rates applicable on date of retirement.

[4] For the purposes of this subsection, determine member's retired grade as if sections 3962(b) and 8962(b) did not apply.

"(c) VOLUNTARY RETIREMENT FOR MEMBERS OF THE ARMY.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 3991 of this title or who is entitled to retired pay computed under section 3992 of this title, the retired pay base is determined in accordance with the following table.

Post, p. 694.
Post, p. 695.

"For a member entitled to retired pay under section:	The retired pay base is:
3911 3918 3920 3924	Monthly basic pay of member's retired grade.[1]
3914 3917	Monthly basic pay to which member was entitled on day before he retired.
3992	Monthly basic pay of grade to which member is advanced on retired list.

---

[1] For the purposes of this subsection, determine member's retired grade as if section 3962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(d) RETIREMENT FOR MEMBERS OF THE NAVY AND MARINE CORPS.—In the case of a member whose retired pay is computed under section 6333 of this title, who is advanced on the retired list under section 6151 of this title, or who is entitled to retainer pay under section 6330 of this title, the retired pay base or retainer pay base is determined in accordance with the following table.

Post, p. 695.
Post, p. 696.

100 STAT. 688

"For a member entitled to retired or retainer pay under section:	The retired pay base or retainer pay base is:
6323 6325(a) 6383	Basic pay of the grade in which the member retired.[1]
6325(b)	Basic pay of the grade the officer would hold if he had not received an appointment described in section 6325(b).
6326	Basic pay of the pay grade in which the member was serving on the day before retirement.
6330	Basic pay that the member received at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

"For a member entitled to retired or retainer pay under section:	The retired pay base or retainer pay base is:
6151	Basic pay of the grade to which the member is advanced under section 6151.

---

[1] If the rate specified is less than the pay of any warrant officer grade satisfactorily held by the member on active duty, use the monthly basic pay of that warrant officer grade.

"(e) VOLUNTARY RETIREMENT FOR MEMBERS OF THE AIR FORCE.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 8991 of this title or who is entitled to retired pay computed under section 8992 of this title, the retired pay base is determined in accordance with the following table. *Post*, p. 697. *Post*, p. 698.

"For a member entitled to retired pay under section:	The retired pay base is:
8911 8918 8920 8924	Monthly basic pay of member's retired grade.[1]
8914 8917	Monthly basic pay to which member was entitled on day before he retired.
8992	Monthly basic pay of grade to which member is advanced on retired list.

---

[1] For the purposes of this subsection, determine member's retired grade as if section 8962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(f) COAST GUARD.—In the case of a member who is retired under any section of title 14, the member's retired pay is computed under section 423(a) of title 14 in the manner provided in that section. *Post*, p. 699.

"(g) COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—In the case of an officer whose retired pay is computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the retired pay base is the basic pay of the rank with which the officer retired. 100 STAT. 689 33 USC 853*o*.

"(h) COMMISSIONED CORPS OF PUBLIC HEALTH SERVICE.—In the case of an officer who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g), 212(a)), the retired pay base is determined as follows: *Post*, pp. 701, 702.

"(1) MANDATORY RETIREMENT.—If the officer is retired under section 210(g) of such Act, the retired pay base is the basic pay of the permanent grade held by the officer at the time of retirement.

"(2) VOLUNTARY RETIREMENT.—If the officer is retired under section 211(a) of such Act, the retired pay base is the basic pay of the highest grade held by the officer and in which, in the case of a temporary promotion to such grade, the officer has performed active duty for not less than six months.

"(i) SPECIAL RULE FOR FORMER CHAIRMEN OF THE JCS, CHIEFS OF SERVICE, AND SENIOR ENLISTED MEMBERS.—

"(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman of the Joint Chiefs of Staff, as a Chief of Service, or as the senior enlisted member of an armed force, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

"(2) Definitions.—In this subsection:

"(A) The term 'Chief of Service' means any of the following:

"(i) Chief of Staff of the Army.
"(ii) Chief of Naval Operations.
"(iii) Chief of Staff of the Air Force.
"(iv) Commandant of the Marine Corps.
"(v) Commandant of the Coast Guard.

"(B) The term 'senior enlisted member' means any of the following:

"(i) Sergeant Major of the Army.
"(ii) Master Chief Petty Officer of the Navy.
"(iii) Chief Master Sergeant of the Air Force.
"(iv) Sergeant Major of the Marine Corps.
"(v) Master Chief Petty Officer of the Coast Guard.

10 USC 1407.

"§ 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average

"(a) Use of Retired Pay Base in Computing Retired Pay.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service after September 7, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(b) High-Three Average.—The retired pay base or retainer pay base of a member under this section is the member's high-three average determined under subsection (c).

"(c) Computation of High-Three Average.—

"(1) Formula.—For the purposes of this section, a member's high-three average is the amount equal to— 100 STAT. 690

"(A) the total amount of monthly basic pay to which the member was entitled for the member's high-36 months, divided by

"(B) 36.

"(2) High-36 months defined.—

"(A) General rule.—A member's high-36 months are the 36 months out of all the months of active duty served by the member as a member of a uniformed service for which the monthly basic pay to which the member was entitled was the highest.

"(B) Rule for non-regular service retirees.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title or under chapter 67 of this title, a member's high-36 months are the 36 months out of all the months the member was a member of a uniformed service before becoming entitled to retired pay for which the monthly basic pay to which the member would have been entitled had he served on active duty during those months was the highest. 10 USC 1331 *et seq.*

"(d) Limitation for Enlisted Members Retiring With Less Than 30 Years' Service.—In the case of a member who is retired under section 3914 or 8914 of this title or who is transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member's high-36 average shall be computed using only rates of basic pay applicable to months of active duty of the member as an enlisted member. *Post*, p. 696.

"(e) Special Rules for Short-Term Disability Retirees.—

"(1) Members entitled to retired pay under section 1201 or 1202.—In the case of a member who—

"(A) is entitled to retired pay under section 1201 or 1202 of this title; and

"(B) served on active duty for less than 36 months,
the months (including any fraction thereof) that the member served on active duty shall be deemed to be the member's high-36 months.

"(2) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1204 OR 1205.—In the case of a member who—

"(A) is entitled to retired pay under section 1204 or 1205 of this title; and

"(B) was a member of a uniformed service for less than 36 months,

the months (including any fraction thereof) that the member was such a member shall be deemed to be the member's high-36 months.

"(f) SPECIAL RULE FOR MEMBERS RETIRING WITH NON-REGULAR SERVICE.—

"(1) DISABILITY RETIREMENT.—In the case of a member of a uniformed service who is entitled to retired pay under section 1204 or 1205 of this title (relating to members on active duty for 30 days or less), the high-36 average is determined as if the member served on active duty and was entitled to basic pay for the member's high-36 months.

"(2) CHAPTER 67 RETIREMENT.—In the case of a person who is entitled to retired pay under section 1331 of this title (relating to retired pay for non-regular service), the person's high-36 average is determined as if the person served on active duty and was entitled to basic pay for the person's high-36 months. 100 STAT. 691

"(g) DEFINITION.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

(c) CONFORMING AMENDMENTS.—

(1) Sections 5083 and 5201(c) are each amended by striking out the last sentence.

(2) Section 6325(c) is amended by striking out the last sentence.

SEC. 105. RULES OF CONSTRUCTION FOR PURPOSES OF COMPUTING RETIRED PAY

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1410 (as added by section 103) the following new sections:

"§ 1411. Rules of construction

10 USC 1411.

"(a) CONSTRUCTION OF 'FIRST BECAME A MEMBER'.—For purposes of this chapter and other provisions of law providing for computation of retired or retainer pay of members of the uniformed services, a person shall be considered to first become a member of a uniformed service on the date the person is first enlisted, inducted, or appointed in a uniformed service.

"(b) REFERENCES IN TABLES.—Section references in tables in this chapter are to sections of this title.

"§ 1412. Rounding to next lower dollar

10 USC 1412.

"Amounts computed under this chapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 106. YEARS OF SERVICE FOR COMPUTING RETIRED PAY

Section 1405 (relating to determination of years of service for computation of retired pay) is amended—

(1) by striking out the matter preceding clause (1) and inserting in lieu thereof "(a) IN GENERAL.—For the purposes of the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member are computed by adding—"; and

(2) by adding at the end the following:

"(b) **Fractional Years of Service.**—In determining a member's years of service under subsection (a)—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as $1/12$ of a year; and

"(2) any remaining fractional part of a month shall be disregarded.".

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

SEC. 201. RETIRED PAY COMPUTED UNDER SUBTITLE A

100 STAT. 692

(a) DOPMA Officers and Warrant Officers.—Section 1401 (relating to computation of retired pay) is amended—

(1) by inserting "(a) **Disability, Non-Regular Service, Warrant Officer, and DOPMA Retirement.**—" before "The monthly";

(2) by striking out the third, fourth, and fifth sentences;

(3) by striking out column 1 of the table and inserting in lieu thereof the following:

"Column 1 Take
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.
Retired pay base as computed under section 1406(b) or 1407.";

(4) by striking out the matter relating to formulas 4 and 5 under columns 2, 3, and 4 of the table and inserting in lieu thereof the following:

"The retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405		
The retired pay multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405.";		

(5) by striking out "pay" each place it appears in columns 3 and 4 of the table and inserting in lieu thereof "retired pay base";

(6) by striking out footnotes 1, 2, 4, and 5 of the table and redesignating footnote 3 as footnote 1;

100 STAT. 693

(7) by redesignating the references to footnote 3 in column 2 of the table to conform to the redesignation made by paragraph (6); and

(8) by adding at the end the following new subsection:

"(b) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.".

(b) RECOMPUTATION FOR LATER ACTIVE DUTY.—

(1) FORMULA FOR RECOMPUTATION OF NEW RETIREMENT MEMBERS.—Subsection (a) of section 1402a (relating to recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980) is amended to read as follows:

"(a) IN GENERAL.—A member of an armed force—

"(1) who first became a member of a uniformed service after September 7, 1980;

"(2) who has become entitled to retired pay or retainer pay; and

"(3) who thereafter serves on active duty (other than for training),

is entitled to recompute his retired pay or retainer pay upon release from that duty according to the following table.

"Column 1 Take	Column 2 Multiply by
Retired pay base or retainer pay base under section 1407 which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	The retired pay multiplier or retainer pay multiplier prescribed in section 1409 for the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.".

(2) TECHNICAL AMENDMENTS.—Such section is further amended—

(A) by inserting "NEW DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (b) after "(b)";

(B) by inserting "ADDITIONAL OR AGGRAVATED DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (c) after "(c)";

(C) in subsection (d)—

(i) by inserting "COMPUTATION FOR LATER DISABILITY.—" after "(d)";

(ii) by striking out the second sentence; and

(iii) by striking out "monthly" both places it appears in the table; and

100 STAT. 694

(D) by inserting "ALTERNATIVE RECOMPUTATION TO SUBSECTION (a) FORMULA.—" in subsection (e) after "(e)".

(3) CONFORMING AMENDMENTS.—Section 1402 is amended by striking out the second sentence of subsections (a) and (d).

Post, p. 703

SEC. 202. MEMBERS OF THE ARMY

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 3991 (relating to computation of retired pay) is amended to read as follows:

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

“Formula	For Sections	Column 1 Take	Column 2 Multiply by
A	3911 3918 3920 3924	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	3914 3917	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 3925.

“(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 3914 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

“(b) GENERAL RULES.—

“(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

Ante, p. 691.

“(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

100 STAT. 695

“(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.”.

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 3992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

“Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 3925 of this title.[1]
B	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

---

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.”.

(c) Conforming Amendment.—Section 3925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title— *Ante*, p. 694.

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded."

SEC. 203. MEMBERS OF THE NAVY AND MARINE CORPS

(a) Retired and Retainer Pay Formula.—Section 6333 is amended to read as follows:

"§ 6333. Computation of retired and retainer pay 10 USC 6333.

"(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6383 of this title is computed in accordance with the following table. *Post*, p. 696.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	6325(a) 6326	Retired pay base computed under section 1406(d) or 1407.	75 percent.
B	6323 6325(b) 6383	Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.
C	6330	Retainer pay base computed under section 1406(d) or 1407.	Retainer pay multiplier prescribed under section 1409 for his years of active service in the armed forces.

100 STAT. 696

"(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(2) References in the table in subsection (a) are to sections of this title.".

(b) Conforming Amendments.—

(1) Section 6322 is amended by striking out subsection (c). 10 USC 6322.

(2) Section 6323(e) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.". *Ante*, p. 695.

(3) Section 6325 is amended by striking out "retired pay—" in subsections (a)(2) and (b)(2) and all that follows in those subsections and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(4) Section 6326(c)(2) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(5) Section 6328 is repealed.

(6) Section 6330(c) is amended—

(A) by striking out "retainer pay—" in paragraph (1) and all that follows in that paragraph and inserting in lieu thereof "retainer pay computed under section 6333 of this title."; and

(B) by striking out paragraph (4).

(7) Section 6383 is amended—

(A) by striking out "retired pay—" in subsection (c)(2) and all that follows in that subsection and inserting in lieu thereof "retired pay computed under section 6333 of this title."; and

(B) by striking out subsection (k).

(c) Members Advanced on Retired List.—Section 6151 (relating to higher retired grade and pay for members who serve satisfactorily under temporary appointments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Each member (other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve) who is advanced on the retired list under this section is (unless otherwise entitled to higher retired pay) entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.

"(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section is entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the number of years of service creditable for his retainer pay at the time of retirement.".

SEC. 204. MEMBERS OF THE AIR FORCE

(a) Initial Computation of Retired Pay.—The text of section 8991 (relating to computation of retired pay) is amended to read as follows: 10 USC 8991.

"(a) Computation.—

"(1) In general.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	8911 8918 8920 8924	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
B	8914 8917	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 8925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 8914 of this title has been credited by the Secretary of the Air Force with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him. *Ante*, p. 691.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 8992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 8925 of this title.[1]
B	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 8925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 8991 of this title— *Ante*, p. 697.

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded.".

100 STAT. 699

SEC. 205. MEMBERS OF THE COAST GUARD

(a) In General.—Section 423 of title 14, United States Code (relating to the computation of retired pay), is amended to read as follows:

14 USC 423.

"§ 423. Computation of retired pay

"(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

"(A) the sum of—

"(i) the basic pay of the member's retired grade or rate, and

"(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

"(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

Ante, p. 683.
Ante, p. 691.

"(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

"(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

"(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

"(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

Ante, p. 689.

"(1) the retired pay base determined under section 1407 of title 10; by

"(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

"(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

"(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) Conforming Amendments.—

14 USC 46.
100 STAT. 700

(1) Section 46 of such title is amended by striking out "and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant" in subsections (a), (b), and (c).

14 USC 47.

(2) Section 47 of such title is amended—

(A) by striking out "and retired pay" in subsections (b) and (c); and

(B) by striking out "and with the retired pay of that grade" in subsection (d).

14 USC 51.

(3) Section 51 of such title is amended—

(A) by striking out "and retired pay" in subsections (a) and (b); and

(B) by striking out "and with the retired pay of that grade" in subsection (c).

(4) Section 288(b) of such title is amended by striking out "Except as provided in section 423(b) of this title, the retired pay" and inserting in lieu thereof "Retired pay computed under section 423(a) of this title". *Ante*, p. 699.

(5) Sections 291, 292, and 293 of such title are amended by striking out ", with retired pay of the grade with which retired".

(6) Section 327(b)(1) of such title is amended by striking out ", and with the pay".

(7) Section 334 of such title is amended—

(A) by striking out ", with retired pay of the grade with which retired" in subsections (a) and (b); and

(B) by striking out the second sentence of subsection (b).

(8) Sections 353, 354, 355, and 362 of such title are amended by striking out ", with retired pay of the grade or rating with which retired".

(9) Section 357 is amended—

(A) by striking out "the retired pay of the grade or rating with which retired" in subsection (b) and inserting in lieu thereof "retired pay"; and

(B) by striking out "by an amount" and all that follows in subsection (c) and inserting in lieu thereof "by an amount equal to 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title.". *Ante*, p. 689. *Ante*, p. 699.

(10) Sections 421 and 422 of such title are amended by striking out "rating" each place it appears and inserting in lieu thereof "rate".

(11) Section 424 of such title is amended to read as follows:

"§ 424. Limitations on retirement and retired pay 14 USC 424.

"(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

"(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2) the retired pay base determined under section 1407 of title 10, as appropriate.". *Ante*, p. 689.

SEC. 206. COMMISSIONED OFFICERS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Section 16 of the Coast and Geodetic Survey Commissioned Officers Act of 1948 (33 U.S.C. 853o) is amended to read as follows: 33 USC 853o.

"SEC. 16. (a) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by *Ante*, p. 686.

"(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces. *Ante*, p. 691.

The retired pay so computed may not exceed 75 percent of the retired pay base.

"(b) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10, United States Code; by

Ante, p. 683.

"(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

"(c)(1) In computing the number of years of service of an officer for the purposes of subsection (a)—

"(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 207. COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE

(a) Mandatory Retirement.—Section 210(g)(3) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2½ percent of the retired pay base determined under section 1406(h) of title 10, United States Code, for each year, not in excess of 30, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, at the rate determined by multiplying—

"(i) the retired pay base determined under section 1407 of title 10, United States Code; by

"(ii) the retired pay multiplier determined under section 1409 of such title for the number of years of his active commissioned service in the Service.".

100 STAT. 702

(b) Voluntary Retirement.—Paragraph (6) of section 211(a) of such Act (42 U.S.C. 212(a)) is amended to read as follows:

"(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

Ante, p. 689.

"(A) the retired pay base determined under section 1407 of title 10, United States Code; by

Ante, p. 683.

"(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).".

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

SEC. 301. SURVIVOR BENEFIT PLAN ANNUITIES

(a) Unreduced Retired Pay as Basis For Annuity.—

10 USC 1447.

(1) Section 1447(2)(A) (relating to the definition of "base amount" for purposes of the Survivor Benefit Plan) is amended by inserting "(determined without regard to any reduction under section 1409(b)(2) of this title)" after "retired or retainer pay" the second place it appears.

(2) Section 1451 is amended by adding at the end the following new subsection:

"(h) Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(3) Section 1452(c) is amended by adding at the end the following new sentence: "Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(b) COST-OF-LIVING ADJUSTMENTS.—Section 1451(g)(1) is amended—

(1) by striking out "by the same total percent" in the first sentence; and

(2) by inserting after the first sentence the following new sentence: "The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).".

(c) RESTORAL OF COLA.—Section 1451 is amended by adding after subsection (h) (as added by subsection (a)(2)) the following new subsection:

"(i) In the case of an annuity under the Plan which is computed on the basis of the retired pay of a member or former member who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who died before attaining such age, such annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, on the basis of the amount of retired pay to which the member or former member would have been entitled upon recomputation of such pay effective on such date under section 1410 of this title, had the member or former member attained such age.".

Ante, p. 685.

SEC. 302. REPORT ON RESERVE RETIREMENT SYSTEM

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to Congress a report on the retirement system provided under chapter 67 of title 10, United States Code, for members of the Armed Forces performing non-regular service. The Secretary shall include in the report any proposals of the Secretary for modifications to such system.

10 USC 1331 note.

10 USC 1331 *et seq.*

100 STAT. 703

(b) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1988.

SEC. 303. DEFINITION

Section 101 (relating to definitions for purposes of title 10) is amended by adding at the end the following new paragraph:

10 USC 101.

"(43) 'Uniformed services' means—

"(A) the armed forces;

"(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

"(C) the commissioned corps of the Public Health Service.".

SEC. 304. TECHNICAL AND CONFORMING AMENDMENTS

(a) UNIFORMED SERVICES DEFINITION.—

(1) Section 716 is amended by striking out subsection (c). 10 USC 716.

(2) Section 1040(c) is amended by striking out "'Dependent' and 'uniformed services' in this section have the meanings of those terms as defined in" and inserting in lieu thereof "In this section, the term 'dependent' has the meaning given that term in".

(3) Section 1402 is amended by striking out "(as defined in section 1407(a)(2) of this title)" each place it appears. *Ante*, p. 694.

(4) Section 2830 is amended by striking out subsection (c).

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 67 is amended by adding at the end the following new item: 10 USC 1331.

"1338. Limitations on revocation of retired pay.".

10 USC 1401.

(2) The table of sections at the beginning of chapter 71 is amended—

(A) by striking out the item relating to section 1402 and inserting in lieu thereof the following:

"1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.";

(B) by striking out the items relating to sections 1406 and 1407 and inserting in lieu thereof the following:

"1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.

"1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.";

and

(C) by adding at the end the following new items:

"1409. Retired pay multiplier.

"1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986.

"1411. Rules of construction.

"1412. Rounding to next lower dollar.".

(3) The heading of section 1402 is amended to read as follows:

"§ 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980".

10 USC 6321.

(3) The table of sections at the beginning of chapter 571 is amended—

(A) by striking out the item relating to section 6328; and

(B) by striking out the item relating to section 6333 and inserting in lieu thereof the following:

"6333. Computation of retired and retainer pay.".

SEC. 305. CODIFICATION OF PERMANENT LIMITATIONS ON RETIRED AND RETAINER PAY PROVIDED IN APPROPRIATION ACTS

(a) LIMITATION ON CREDITING CERTAIN UNSERVED SERVICE IN ENTITLEMENT TO AND COMPUTATION OF RETAINER PAY.—

10 USC 6330.

(1) CODIFICATION.—Section 6330(d) is amended—

(A) by inserting "(1)" after "(d)";

(B) by striking out the second sentence; and

(C) by adding at the end the following:

"(2) In determining a member's eligibility for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)—

"(A) a completed minority enlistment of the member is counted as four years of active service, if creditable to the member for such purpose before December 31, 1977; and

"(B) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term, if creditable to the member for such purpose before December 31, 1977.

"(3)(A) Subject to subparagraph (B), in determining a member's years of active service for the computation of retainer pay under subsection (c)—

"(i) a completed minority enlistment of the member is counted as four years of active service; and

"(ii) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term.

"(B) In the case of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section after December 30, 1977, service attributable under subparagraph (A) to time which, after December 31, 1977, is not actually served by the member may not be counted.".

(2) Repeal of source law.—Section 8039 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1930)), is repealed.

10 USC 6330 note.

(b) Six-Month Rounding Rule.—

10 USC 1401 note.

(1) General rule.—Retired pay or retainer pay may not be paid to a covered member of the Armed Forces (as defined in paragraph (3)) for any month in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served.

(2) Exceptions.—The limitation in paragraph (1) does not apply to a member who before January 1, 1982—

(A) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve;

(B) was being processed for retirement under the provisions of chapter 61 of title 10, United States Code, or who was on the temporary disability retired list and thereafter retired under the provisions of section 1210(c) or 1210(d) of such title; or

10 USC 1201 *et seq.*

(C) was retired or in an inactive status and would have been eligible for retired pay under the provisions of chapter 67 of such title, but for the fact that the person was under 60 years of age.

10 USC 1331 *et seq.*

(3) Definition of covered member.—For the purposes of this subsection, the term "covered member of the Armed Forces" means a member of the Armed Forces who became entitled to retired or retainer pay during the period beginning on January 1, 1982, and ending on September 30, 1983.

(4) Repeal of source law.—Section 8054 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473), is repealed.

10 USC 1401 note.

(5) Cross reference.—For the effective date of October 1, 1983, for provisions making permanent programmatic changes in law to accomplish the policy provided in such section 8054 (and prior provisions of law), see section 923(h) of the Department of Defense Authorization Act, 1984 (Public Law 98-94).

97 Stat. 642.

SEC. 306. REPEAL OF LIMITATION ON PAYMENTS TO ACCRUAL FUND FOR FISCAL YEAR 1986

Section 666 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 659), is repealed.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

SEC. 401. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 DEFENSE APPROPRIATIONS

(a) Authority.—The amounts described in subsection (b), totaling $5,446,930,000, may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1986 defense appropriations except as otherwise provided in section 402 (and except as such amounts may have been reduced by the order of the President issued for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985).

Post, p. 706.

2 USC 902.

(b) Covered Amounts.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1986 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1986 defense authorizations.

(c) Definitions.—For the purposes of this title:

(1) Fiscal year 1986 defense appropriations.—The term "fiscal year 1986 defense appropriations" means amounts

appropriated or otherwise made available to the Department of Defense for fiscal year 1986 in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190).

99 Stat. 1185.

(2) Fiscal year 1986 defense authorizations.—The term "fiscal year 1986 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1986 in the Department of Defense Authorization Act, 1986 (Public Law 99-145).

100 STAT. 706

99 Stat. 583.

(d) Interpretation of Section.—The authority provided by subsection (a) shall be considered to be the authorization required by section 8109 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222).

SEC. 402. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

Ante, p. 705.

(a) Programs Not Available for Obligation.—Amounts described in section 401(b) may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1986 defense appropriations):

(1) Refueling tanker modification under Procurement for the Navy in the amount of $110,000,000.

(2) Research, development, test, and evaluation for the Air Force—

(A) for the Space Defense System in the amount of $15,066,000; and

(B) for the MEECN communications upgrade program in the amount of $15,000,000.

(3) Operation and maintenance for audit/inventory report reductions not taken in fiscal year 1986 defense appropriations in the total amount of $29,000,000.

(b) Limitation on Certain Programs.—

99 Stat. 1185.

99 Stat. 1219.

99 Stat. 583.

(1) 120-millimeter mortar.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), for procurement of the 120-millimeter mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in section 8095 of such Act and in the joint explanatory statement of the committee of conference on the bill S. 1160 (99th Congress), printed in House Report 99-235.

(2) M72E4 light antiarmor weapon.—Using funds appropriated in such Act, the Secretary of the Army shall—

(A) complete development and operational testing of the M72E4 light antiarmor weapon;

(B) type classify the weapon; and

(C) acquire a technical data package.

(3) Prior reports to congress.—Amounts authorized in section 401(a) for procurement of follow-on air defense equipment for the Army and amounts authorized for research, development, test, and evaluation for the Army for DIVAD alternatives may not be obligated or expended until the Secretary of Defense submits to the appropriate committees of Congress a report setting forth in detail the manner in which funds are proposed to be obligated or expended for such purpose.

(d) Program Limitations.—All limitations and requirements set forth in the Department of Defense Authorization Act, 1986, shall apply to the obligation of funds authorized by section 401(a) in the same manner as if the funds made available for obligation by such section had been authorized in such Act.

(e) Transfer Authority.—For the purposes of section 1401 the Department of Defense Authorization Act, 1986 (99 Stat. 742), authorizations in section 401(a) shall be deemed to have been made available to the Department of Defense in such Act.

SEC. 403. AUTHORIZED MILITARY CONSTRUCTION PROJECT

(a) AUTHORIZED PROJECT.—

(1) AUTHORIZATION.—The Secretary of the Navy may carry out the military construction project described in paragraph (2), funds for such project having been appropriated in the Military Construction Appropriations Act, 1986 (Public Law 99-173; 99 Stat. 1024).

(2) PROJECT DESCRIPTION.—The project referred to in paragraph (1) is a project for the construction of a berthing pier and bulkhead at the Naval Station, Staten Island, New York. The amount authorized for the project is $39,700,000. New York.

(b) CONSTRUCTION WITH PUBLIC LAW 99-167.— 99 Stat. 961.

(1) PROJECT AUTHORIZATIONS.—The project authorization in subsection (a) shall be deemed to have been included in section 201(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 966).

(2) APPROPRIATION AUTHORIZATION TOTALS.—The total amount authorized to be appropriated for the Department of the Navy set forth in section 602(a) of such Act (99 Stat. 980), and the amount authorized for military construction projects inside the United States set forth in paragraph (1) of that section, shall be deemed to be increased by the amount specified in subsection (a)(2).

(3) LIMITATION RELATING TO FUNDS FOR NAVAL STRATEGIC HOMEPORTING.—For the purposes of section 205 of such Act (99 Stat. 971), amounts available for the project authorized in subsection (a) shall be deemed to be funds appropriated pursuant to an authorization in section 602 of such Act for Naval Strategic Homeporting.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) CREATION OF POSITION.—Chapter 4 of title 10, United States Code, is amended by inserting after section 134 the following new section:

"§ 134a. Under Secretary of Defense for Acquisition: appointment 10 USC 134a.

"(a) There is an Under Secretary for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe, except as otherwise provided by law.".

(b) REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Subsection (a) of section 135 of such title is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is an Under Secretary of Defense for Policy and a Director of Defense Research and Engineering. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.".

(2) The second sentences of subsections (b) and (c) of such section are amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

(3) The redesignation by paragraph (1) of the position of Under Secretary of Defense for Research and Engineering as Director of Defense Research and Engineering does not affect the appointment to such position of the individual holding such position on the date of the enactment of this Act. 10 USC 135 note.

(c) CONFORMING AMENDMENT.—Section 136a(d) of such title is amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

(d) EXECUTIVE SCHEDULE POSITIONS.—(1) Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Defense for Acquisition.".

(2) Section 5314 of such title is amended—

(A) by striking out "Under Secretaries of Defense (2)" and inserting in lieu thereof "Under Secretary of Defense for Policy"; and

(B) by adding at the end the following:

"Director of Defense Research and Engineering.".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 135 of title 10, United States Code, is amended to read as follows:

10 USC 135.

"§ 135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence".

10 USC 131.

(2) The table of sections at the beginning of chapter 4 of such title is amended by striking out the item relating to section 135 and inserting in lieu thereof the following:

"134a. Under Secretary of Defense for Acquistion: appointment.

"135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence.".

SEC. 502. LIMITATION ON EXPENDITURE OF FUNDS TO PROCURE T-46 TRAINER AIRCRAFT

None of the funds appropriated to the Department of Defense for fiscal year 1986 may be obligated or expended for procurement of T-46 trainer aircraft until—

(1) a fiscal year 1987 Defense Authorization Act is enacted which authorizes appropriations for procurement of the T-46 aircraft; or

(2) October 1, 1986, if a fiscal year 1987 Defense Authorization Act is not enacted by such date.

SEC. 503. POSTPONEMENT OF A CERTAIN DEPARTMENT OF DEFENSE CONTRACT

Weapons.
Foreign interest.

(a) POSTPONEMENT UNTIL POLICY ESTABLISHED BY LAW.—The Secretary of Defense may not award a contract with respect to Defense Construction Supply Center Solicitation numbered DLA700-85-B-4-4607 (for the purchase of 178 crawler tractors) until Congress by law establishes a policy concerning the award of defense contracts to firms in which a foreign government (or a wholly owned instrumentality of a foreign government) has a significant interest.

(b) EXCEPTIONS AT END OF 99TH CONGRESS.—Notwithstanding subsection (a), if Congress as of the date of the sine die adjournment of the 99th Congress—

(1) has not completed action on legislation establishing a policy described in subsection (a), such a contract may be awarded after the date of such sine die adjournment; or

100 STAT. 709

(2) has completed action on legislation establishing such a policy and the President has not yet approved or disapproved such legislation, such a contract may be awarded after the date the President approves or declines to approve such legislation.

Approved July 1, 1986.

LEGISLATIVE HISTORY—H.R. 4420 (S. 2395):

HOUSE REPORTS: No. 99-513 (Comm. on Armed Services) and No. 99-659 (Comm. of Conference).
SENATE REPORTS: No. 99-292 accompanying S. 2395 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Apr. 22, considered and passed House.
May 14, 15, considered and passed Senate, amended, in lieu of S. 2395.
June 25, Senate agreed to conference report.
June 26, House agreed to conference report.

Public Law 99-433
99th Congress

100 STAT. 992

An Act

To reorganize the Department of Defense and strengthen civilian authority in the Department of Defense, to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense, to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands and ensure that the authority of those commanders is fully commensurate with that responsibility, to increase attention to the formulation of strategy and to contingency planning, to provide for more efficient use of defense resources, to improve joint officer management policies, otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense, and for other purposes.

Oct. 1, 1986
[H.R. 3622]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Goldwater-Nichols Department of Defense Reorganization Act of 1986.
Armed Forces.
Defense and national security.
10 USC 111 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) Short Title.—This Act may be cited as the "Goldwater-Nichols Department of Defense Reorganization Act of 1986".

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 10, United States Code.
Sec. 3. Policy.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

Sec. 101. Organization of the Department of Defense.
Sec. 102. Powers and duties of the Secretary of Defense.
Sec. 103. Modification of authority of Secretary of Defense to reorganize the Department of Defense.
Sec. 104. Office of the Secretary of Defense.
Sec. 105. Under Secretary for Policy and Director of Defense Research and Engineering.
Sec. 106. Assistant Secretaries of Defense.
Sec. 107. Comptroller of the Department of Defense.
Sec. 108. Inspector General of the Department of Defense.
Sec. 109. Management studies of Office of the Secretary of Defense.
Sec. 110. Technical and conforming amendments.

TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

Part A—Joint Chiefs of Staff

Sec. 201. Revised functions of Chairman; establishment of Vice Chairman.
Sec. 202. Provisions relating to Vice Chairman.
Sec. 203. Participation in National Security Council meetings.
Sec. 204. Transition.

Part B—Combatant Commands

Sec. 211. Establishment of combatant commands and authority of commanders.
Sec. 212. Initial review of combatant commands.
Sec. 213. Repeal of certain limitations on command structure.
Sec. 214. Transition.

100 STAT. 993

TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

Sec. 301. Establishment and management of Defense Agencies and Department of Defense Field Activities.
Sec. 302. Definitions of Defense Agency and Department of Defense Field Activity.
Sec. 303. Reassessment of Defense Agencies and DOD Field Activities.
Sec. 304. Transition.

TITLE IV—JOINT OFFICER PERSONNEL POLICY

Sec. 401. Joint officer management.
Sec. 402. Promotion procedures for joint officers.
Sec. 403. Consideration of joint duty in senior general and flag officer appointments and advice on qualifications.

Sec. 404. Joint duty assignment as prerequisite for promotion to general or flag officer grade.
Sec. 405. Annual report on implementation.
Sec. 406. Transition.

TITLE V—MILITARY DEPARTMENTS

PART A—DEPARTMENT OF THE ARMY

Sec. 501. The Army Secretariat.
Sec. 502. The Army Staff.
Sec. 503. Authority to organize Army into commands, forces, and organizations

PART B—DEPARTMENT OF THE NAVY

Sec. 511. The Navy Secretariat.
Sec. 512. Office of the Chief of Naval Operations.
Sec. 513. Headquarters, Marine Corps.
Sec. 514. Technical and clerical amendments.

PART C—DEPARTMENT OF THE AIR FORCE

Sec. 521. The Air Force Secretariat.
Sec. 522. The Air Staff.
Sec. 523. Authority to organize Air Force into separate organizations.

PART D—GENERAL CONFORMING AMENDMENTS AND TRANSITION PROVISIONS

Sec. 531. Conforming amendments.
Sec. 532. Transition.

TITLE VI—MISCELLANEOUS

Sec. 601. Reduction in personnel assigned to management headquarters activities and certain other activities.
Sec. 602. Reduction of reporting requirements.
Sec. 603. Annual report on national security strategy.
Sec. 604. Legislation to make required conforming changes in law.
Sec. 605. General technical amendments.

SEC. 2. REFERENCES TO TITLE 10, UNITED STATES CODE

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

10 USC 111 note.

SEC. 3. POLICY

In enacting this Act, it is the intent of Congress, consistent with the congressional declaration of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401)—

(1) to reorganize the Department of Defense and strengthen civilian authority in the Department;

(2) to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense; 100 STAT. 994

(3) to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands;

(4) to ensure that the authority of the commanders of the unified and specified combatant commands is fully commensurate with the responsibility of those commanders for the accomplishment of missions assigned to their commands;

(5) to increase attention to the formulation of strategy and to contingency planning;

(6) to provide for more efficient use of defense resources;

(7) to improve joint officer management policies; and

(8) otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense.

TITLE I—DEPARTMENT OF DEFENSE GENERALLY

SEC. 101. ORGANIZATION OF THE DEPARTMENT OF DEFENSE

10 USC 101 *et seq.*

(a) REORGANIZATION OF CODE.—(1) Part I of subtitle A is amended by inserting after chapter 1 the following new chapter:

"CHAPTER 2—DEPARTMENT OF DEFENSE

"Sec.
"111. Executive department.
"112. Department of Defense: seal.
"113. Secretary of Defense.
"114. Annual authorization of appropriations.
"115. Annual authorization of personnel strengths; annual manpower requirements report.
"116. Annual operations and maintenance report.
"117. Annual report on North Atlantic Treaty Organization readiness.
"118. Sale or transfer of defense articles: reports to Congress.".

(2) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to the end of chapter 2 of such title, as added by paragraph (1), and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

10 USC 131 *et seq.*

Existing sections of chapter 4:	New sections of chapter 2
131	111
132	112
133	113
138	114
133a	117
133b	118

(3) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to the end of chapter 3 of such title and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

10 USC 121 *et seq.*

Existing sections of chapter 4:	New sections of chapter 3
140	127
140a	128
140b	129
140c	130

(4) Part IV of subtitle A is amended by inserting after chapter 143 the following new chapter:

10 USC 2201 *et seq.*

100 STAT. 995

"CHAPTER 144—OVERSIGHT OF COST GROWTH IN MAJOR PROGRAMS

"Sec.
"2431. Weapons development and procurement schedules.
"2432. Selected Acquisition Reports.
"2433. Unit cost reports.
"2434. Independent cost estimates.".

(5) The sections of chapter 4 listed in the left-hand column of the following table are transferred (in the order they appear in that column) to chapter 144, as added by paragraph (4), and are redesignated in accordance with the corresponding section numbers in the right-hand column of the table, as follows:

Existing sections of chapter 4:	New sections of chapter 3
139	2431
139a	2432
139b	2433
139c	2434

(6) The heading of chapter 4 is amended to read as follows:

"CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE".

(7) Chapter 4 is amended by redesignating sections of such chapter listed in the left-hand column of the following table in accordance

with the corresponding section numbers in the right-hand column of the table, as follows:

Existing sections:	New sections
134	132
134a	133
136a	138
137	139

(b) ELEMENTS OF THE DEPARTMENT.—Section 111 (as transferred and redesignated by subsection (a)(2)) is amended—

(1) by inserting "(a)" before "The Department of Defense"; and

(2) by adding at the end the following:

"(b) The Department is composed of the following:

"(1) The Office of the Secretary of Defense.

"(2) The Joint Chiefs of Staff.

"(3) The Joint Staff.

"(4) The Defense Agencies.

"(5) Department of Defense Field Activities.

"(6) The Department of the Army.

"(7) The Department of the Navy.

"(8) The Department of the Air Force.

"(9) The unified and specified combatant commands.

"(10) Such other offices, agencies, activities, and commands as may be established or designated by law or by the President.

"(11) All offices, agencies, activities, and commands under the control or supervision of any element named in paragraphs (1) through (10).

President of U.S.

100 STAT. 996

"(c) If the President establishes or designates an office, agency, activity, or command in the Department of Defense of a kind other than those described in paragraphs (1) through (9) of subsection (b), the President shall notify Congress not later than 60 days thereafter.".

SEC. 102. POWERS AND DUTIES OF THE SECRETARY OF DEFENSE

Post, pp. 1022, 1075.

Section 113 (as transferred and redesignated by section 101(a)(2)) is amended by adding at the end the following new subsections:

"(f) When a vacancy occurs in an office within the Department of Defense and the office is to be filled by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by a person serving in that office to carry out effectively the duties and responsibilities of that office.

"(g)(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the heads of Department of Defense components written policy guidance for the preparation and review of the program recommendations and budget proposals of their respective components. Such guidance shall include guidance on—

"(A) national security objectives and policies;

"(B) the priorities of military missions; and

"(C) the resource levels projected to be available for the period of time for which such recommendations and proposals are to be effective.

"(2) The Secretary of Defense, with the approval of the President and after consultation with the Chairman of the Joint Chiefs of Staff, shall provide annually to the Chairman written policy guidance for the preparation and review of contingency plans. Such guidance shall include guidance on the specific force levels and specific supporting resource levels projected to be available for the period of time for which such plans are to be effective.

"(h) The Secretary of Defense shall keep the Secretaries of the military departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.".

SEC. 103. MODIFICATION OF AUTHORITY OF SECRETARY OF DEFENSE TO REORGANIZE THE DEPARTMENT OF DEFENSE

Section 125 is amended—

Post, pp. 1022, 1055.

(1) by striking out "unless the Secretary" in the second sentence of subsection (a) and all that follows in that subsection and inserting in lieu thereof a period; and

(2) by inserting "vested by law in the Department of Defense, or an officer, official, or agency thereof" in subsection (b) after "function, power, or duty".

SEC. 104. OFFICE OF THE SECRETARY OF DEFENSE

Chapter 4 (as amended by section 101(a)) is further amended by inserting after the table of sections the following new section:

"§ 131. Office of the Secretary of Defense

"(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out his duties and responsibilities and to carry out such other duties as may be prescribed by law.

"(b) The Office of the Secretary of Defense is composed of the following:

"(1) The Deputy Secretary of Defense.

100 STAT. 997

"(2) The Under Secretary of Defense for Acquisition.

"(3) The Under Secretary of Defense for Policy.

"(4) The Director of Defense Research and Engineering.

"(5) The Assistant Secretaries of Defense.

"(6) The Comptroller of the Department of Defense.

"(7) The Director of Operational Test and Evaluation.

"(8) The General Counsel of the Department of Defense.

"(9) The Inspector General of the Department of Defense.

"(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

"(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

"(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.".

SEC. 105. UNDER SECRETARY FOR POLICY AND DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

Chapter 4 is further amended—

(1) by striking out the heading and subsection (a) of section 135 and inserting in lieu thereof the following:

"§ 134. Under Secretary of Defense for Policy

10 USC 134.

"(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(2) The Under Secretary shall assist the Secretary of Defense—

"(A) in preparing written policy guidance for the preparation and review of contingency plans; and

"(B) in reviewing such plans.

"(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.

"§ 135. Director of Defense Research and Engineering

"(a) There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate."; and

(2) by striking out the first sentence of subsections (b) and (c) of section 135 (as designated by paragraph (1)).

SEC. 106. ASSISTANT SECRETARIES OF DEFENSE

(a) Repeal of Specification of Certain Assistant Secretaries.—Subsection (b) of section 136 is amended—

(1) by striking out paragraphs (2) and (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively; and 100 STAT. 998

(3) by striking out paragraph (6).

(b) Precedence.—Subsection (e) of such section is amended—

(1) by striking out "and the Under Secretaries of Defense" and inserting in lieu thereof "the Under Secretaries of Defense, and the Director of Defense Research and Engineering"; and

(2) by adding at the end the following new sentence: "The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.".

(c) Conforming Amendments.—Such section is further amended—

(1) in subsection (c)—

(A) by striking out "him" in paragraph (1) and inserting in lieu thereof "the Assistant Secretary"; and

(B) by striking out ", or his designee" in paragraph (2);

(2) by striking out subsection (d); and

(3) by redesignating subsection (e) (as amended by subsection (b) of this section) as subsection (d).

SEC. 107. COMPTROLLER OF THE DEPARTMENT OF DEFENSE

Chapter 4 is further amended by inserting after section 136 the following new section:

10 USC 137. **"§ 137. Comptroller**

"(a) There is a Comptroller of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Comptroller shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

"(c) The Comptroller shall advise and assist the Secretary of Defense—

"(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

"(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

"(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

"(A) the preparation and execution of budgets;

"(B) fiscal, cost, operating, and capital property accounting; and

"(C) progress and statistical reporting;

"(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

"(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by clauses (1) through (4).".

SEC. 108. INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

Chapter 4 is further amended by inserting after section 139 (as redesignated by section 101(a)) the following new section:

"§ 140. Inspector General

"(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App. 3).

100 STAT. 999

"(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.".

5 USC app.

10 USC 131 note.

SEC. 109. MANAGEMENT STUDIES OF OFFICE OF THE SECRETARY OF DEFENSE

(a) SECRETARY OF DEFENSE STUDY.—The Secretary of Defense shall conduct a study of the functions and organization of the Office of the Secretary of Defense. The study shall consider whether the present allocation of functions to, and the organizational structure of, the Office constitute the most effective, efficient, and economical allocation and structure of the Office to assist the Secretary in carrying out his duties and responsibilities. The study shall include consideration of each of the matters specified in subsection (d).

(b) SERVICE SECRETARIES JOINT STUDY.—(1) The Secretaries of the military departments shall conduct a joint study of the functions and organization of the Office of the Secretary of Defense. The study shall be conducted independently of the study conducted by the Secretary of Defense under subsection (a). The Secretaries shall submit a joint report to the Secretary of Defense on such study at a time specified by the Secretary. Except as provided in paragraph (2), the report shall include a discussion of and recommendations concerning each of the matters specified in subsection (d).

Reports.

(2) The Secretary of Defense shall determine the extent to which, and prescribe the procedures under which, the Secretaries of the military departments shall study the matters specified in subsection (d)(1)(A) relating to contingency planning and military operations.

(c) CHAIRMAN OF JCS STUDY.—The Chairman of the Joint Chiefs of Staff shall conduct a study of the functions and organization of the Office of the Secretary of Defense. The study shall be conducted independently of the study conducted by the Secretary of Defense under subsection (a). The Chairman shall submit a report to the Secretary of Defense on such study at a time specified by the Secretary. The report shall include a discussion of and recommendations concerning the matters specified in paragraphs (1)(C), (1)(D), (2), (3), (5), and (6) of subsection (d).

Reports.

(d) MATTERS TO BE INCLUDED.—The study required by subsection (a) shall include consideration of the following:

(1) Whether the present organization of the Office—

(A) is optimally structured to assist the Secretary of Defense in the effective exercise of civilian control of the Department of Defense, including civilian control of—

(i) defense policy development and strategic planning;

(ii) program and budget development;

(iii) policy, program, and budget execution;

(iv) contingency planning; and

(v) military operations;

(B) is the most effective and efficient organization for the initiation, development, and articulation of defense policy;

(C) ensures that strategic planning and contingency planning are linked to, and derived from, national security strategy, policies, and objectives; and

(D) inhibits integration of the capabilities of the Armed Forces along mission lines.

100 STAT. 1000

(2) Whether the planning, programming, and budgeting system of the Department of Defense (including the role of the Office in such system) needs to be revised—

(A) to strengthen strategic planning and policy direction;

(B) to ensure that strategic planning is consistent with national security strategy, policies, and objectives;

(C) to ensure that there is a sufficient relationship between strategic planning and the resource levels projected to be available for the period for which the planning is to be effective;

(D) to ensure that strategic planning and program development give sufficient attention to alliances with other nations;

(E) to provide for more effective oversight, control, and evaluation of policy, program, and budget execution; and

(F) to ensure that past program and budget decisions are effectively evaluated, that such evaluations are supported by consistent, complete, and timely financial and performance data, and that such evaluations are fully considered in the next planning, programming, and budgeting cycle.

(3) Whether the major force program categories of the Five-Year Defense Plan could be restructured to better assist decisionmaking and management control.

(4) Means to improve and strengthen the-oversight function within each element of the Office in policy areas not addressed by the planning, programming, and budgeting system.

(5) Factors inhibiting efficient and effective execution of the functions of the Office, including factors relating to—

(A) duplication of functions (both within the Office and between the Office and other elements of the Department);

(B) insufficient information; and

(C) insufficient resources (including personnel).

(6) Alternative allocations of authorities and functions of the Office and other reorganization proposals for the Office, including the desirability of—

(A) establishing Under Secretaries of Defense for mission-oriented areas of responsibility;

(B) decentralizing functions of the Office;

(C) reducing the number of officials reporting directly to the Secretary of Defense; and

(D) changing the ratio of members of the Armed Forces to civilian employees in the Office.

(7) Whether political appointees in the Office of the Secretary of Defense have sufficient experience and expertise, upon appointment, to be capable of contributing immediately to effective policy formulation and management.

(e) Analysis of Civilian Control.—(1) The Secretary of Defense, in considering under subsection (d)(1)(A) whether effective civilian control of the Department of Defense is best assisted by the current structure of the Office, shall examine the functions performed in the Office by—

(A) members of the Armed Forces on the active-duty list; and

(B) members of the Armed Forces in a retired status and members of the reserve components who are employed in a civilian capacity.

Wages.

100 STAT. 1001

(2) Such examination shall include a determination of the total number of positions in the Office of the Secretary of Defense above grade GS-8 and the military equivalent (as determined by the Secretary of Defense), and of such number—

(A) the number of positions held by members of the Armed Forces on the active-duty list, shown for the military equivalent of each civilian pay grade by number and as a percentage of the total number of positions in the Office in the civilian pay grade concerned and in the military equivalent of such civilian pay grade;

(B) the number of such positions held by members of the Armed Forces in a retired status who are serving in a civilian capacity, shown for each civilian pay grade in the same manner as provided under clause (A); and

(C) the number of such positions held by members of the reserve components who are serving in a civilian capacity, shown for each civilian pay grade in the same manner as provided under clause (A).

(3) In determining the total number of positions in the Office of the Secretary of Defense in grades above GS-8, the Secretary shall exclude positions which are primarily clerical or secretarial.

(f) Independent Contractor Study.—The Secretary shall provide for an independent study to be carried out by a contractor to consider the same matters required to be considered by the Secretary under subsection (d). The Secretary shall ensure that the contractor has full access to such information as the contractor requires and that the contractor otherwise receives full cooperation from all officials and entities of the Department of Defense.

(g) Report to Congress.—(1) The Secretary of Defense shall submit to Congress a report on the Secretary's study under subsection (a). The report shall include—

(A) the findings and conclusions of the Secretary with respect to each of the matters set forth in subsection (d);

(B) the findings and statistical determinations required under subsection (e); and

(C) any recommendations of the Secretary for organizational changes in the Office of the Secretary of Defense and a description of the means for implementing each recommendation.

(2) The Secretary shall include with the report a copy of the reports to the Secretary under subsections (b) and (c) and a copy of the report of the independent contractor under subsection (f), together with such comments on each such report as the Secretary considers appropriate.

(3) The report under this subsection shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS

(a) Conforming Amendment for Office of Secretary of Defense.—Chapter 41 is amended— 10 USC 711 *et seq.*

(1) by striking out section 718; and

(2) by striking out the item relating to that section in the table of sections at the beginning of such chapter.

(b) Revision of Old Section 138.—Section 114 (as transferred and redesignated by section 101(a)) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

100 STAT. 1002

"§ 114. Annual authorization of appropriations"; 10 USC 114.

(2) by transferring subsection (h) to the end of section 113 (as transferred and redesignated by section 101(a) and amended by section 102) and redesignating such subsection as subsection (i);

(3) by striking out "(as defined in subsection (f))" in subsection (a)(6);

(4) by inserting after subsection (a) the following:

"§ 115. Annual authorization of personnel strengths; annual manpower requirements report";

(5) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively;

(6) by inserting after such subsection (c) (as so redesignated) the following:

"§ 116. Annual operations and maintenance report";

(7) by redesignating subsection (e) as subsection (a);

(8) by transferring subsection (f)(1) to the end of section 114 (as determined by the amendments made by this subsection) and striking out "(f)(1)" therein and inserting in lieu thereof "(b)";

(9) by striking out "(2) In subsection (e)" and inserting in lieu thereof "(b) In this section";

(10) by striking out "(A) 'Combat" and "(B) 'Major" and inserting in lieu thereof "(1) The term 'combat" and "(2) The term 'major", respectively; and

(11) by transferring subsections (g) and (i) to the end of section 114 (as determined by the amendments made by this subsection) and redesignating such subsections as subsections (c) and (d), respectively.

(c) TECHNICAL AMENDMENTS.—(1) Section 133 (as redesignated by section 101(a)) is amended by inserting "of Defense" in subsection (a) after "Under Secretary".

(2) The heading of chapter 3 is amended to read as follows:

"CHAPTER 3—GENERAL POWERS AND FUNCTIONS".

(d) REVISED SECTION HEADINGS.—(1) The heading of section 112 (as redesignated by section 101(a)) is amended to read as follows:

"§ 112. Department of Defense: seal".

(2) The heading of section 113 (as redesignated by section 101(a)) is amended to read as follows:

"§ 113. Secretary of Defense".

(3) The heading of section 117 (as redesignated by section 101(a)) is amended to read as follows:

"§ 117. Annual report on North Atlantic Treaty Organization readiness".

(4) The heading of section 127 (as redesignated by section 101(a)) is amended to read as follows:

"§ 127. Emergency and extraordinary expenses".

(5) The heading of section 128 (as redesignated by section 101(a)) is
100 STAT. 1003 amended to read as follows:

"§ 128. Funds transfers for foreign cryptologic support".

(6) The heading of section 130 (as redesignated by section 101(a)) is amended to read as follows:

"§ 130. Authority to withhold from public disclosure certain technical data".

(7) The heading of section 132 (as redesignated by section 101(a)) is amended to read as follows:

"§ 132. Deputy Secretary of Defense".

(8) The heading of section 133 (as redesignated by section 101(a)) is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition".

(9) The heading of section 136 is amended to read as follows:

"§ 136. Assistant Secretaries of Defense".

(10) The heading of section 138 (as redesignated by section 101(a)) is amended to read as follows:

"§ 138. Director of Operational Test and Evaluation".

(11) The heading of section 139 (as redesignated by section 101(a)) is amended to read as follows:

"§ 139. General Counsel".

(12) The heading of section 2431 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2431. Weapons development and procurement schedules".

(13) The heading of section 2432 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2432. Selected Acquisition Reports".

(14) The heading of section 2433 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2433. Unit cost reports".

(15) The heading of section 2434 (as redesignated by section 101(a)) is amended to read as follows:

"§ 2434. Independent cost estimates".

(e) CLERICAL AMENDMENTS FOR REORGANIZATION OF CHAPTER 4.—(1) The table of sections at the beginning of chapter 3 is amended by adding at the end the following new items:

"127. Emergency and extraordinary expenses.
"128. Funds transfers for foreign cryptologic support.
"129. Prohibition of certain civilian personnel management constraints.
"130. Authority to withhold from public disclosure certain technical data.".

(2) The table of sections at the beginning of chapter 4 is amended to read as follows:

"Sec.
"131. Office of the Secretary of Defense.
"132. Deputy Secretary of Defense.
"133. Under Secretary of Defense for Acquisition.
"134. Under Secretary of Defense for Policy.
"135. Director of Defense Research and Engineering.
"136. Assistant Secretaries of Defense.
"137. Comptroller.
"138. Director of Operational Test and Evaluation.
"139. General Counsel.
"140. Inspector General.".

(g) CROSS REFERENCE AMENDMENTS TO TITLE 10.—(1) Section 138(a)(2)(B) (as redesignated by section 101(a)) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(2) Section 1621(3) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(3) Section 2305a(d) is amended—

(A) by striking out "section 139a(a)" in paragraph (1) and inserting in lieu thereof "section 2432(a)"; and

(B) by striking out "section 139a(a)(1)(B)" both places it appears in paragraph (2) and inserting in lieu thereof "section 2432(a)(1)(B)".

(4) Section 2362(e)(2) is amended by striking out "section 139a" and inserting in lieu thereof "section 2432".

(5) Section 2403(e) is amended by striking out "section 139a" in paragraphs (1) and (2) and inserting in lieu thereof "section 2432".

(6) Section 2431 (as redesignated by section 101(a)) is amended by striking out "section 138(a)" in subsection (a) and inserting in lieu thereof "section 114(a)".

(7) Section 2432(c) (as redesignated by section 101(a)) is amended by striking out "section 139" in subsection (c)(1) and inserting in lieu thereof "section 2431".

(8) Section 2433 (as redesignated by section 101(a)) is amended—

(A) by striking out "section 139a(a)" in subsection (a)(1) and inserting in lieu thereof "section 2432(a)"; and

(B) by striking out "section 139a(b)(3)" in subsection (b) and inserting in lieu thereof "section 2432(b)(3)".

(9) Section 2434(b)(1) (as redesignated by section 101(a)) is amended by striking out "section 139a(a)(1)" and inserting in lieu thereof "section 2432(a)(1)".

(10) Section 8062(e) is amended by striking out "section 138" and inserting in lieu thereof "section 114".

(h) CROSS REFERENCE AMENDMENTS TO OTHER ACTS.—(1) Section 51(c)(1) of the Arms Export Control Act (22 U.S.C. 2795(c)(1)) is amended by striking out "section 138(g)" and inserting in lieu thereof "section 114(c)".

(2) Section 53(b) of the Arms Export Control Act (22 U.S.C. 2795b(b)) is amended by striking out "section 139(a)" and inserting in lieu thereof "section 2431(a)".

(3) Section 303(c) of the Internal Security Act of 1950 (50 U.S.C. 833(c)) is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

TITLE II—MILITARY ADVICE AND COMMAND FUNCTIONS

PART A—JOINT CHIEFS OF STAFF

SEC. 201. REVISED FUNCTIONS OF CHAIRMAN; ESTABLISHMENT OF VICE CHAIRMAN

100 STAT. 1005

Chapter 5 is amended to read as follows:

"CHAPTER 5—JOINT CHIEFS OF STAFF

"Sec.
"151. Joint Chiefs of Staff: composition; functions.
"152. Chairman: appointment; rank.
"153. Chairman: functions.
"154. Vice Chairman.
"155. Joint Staff.

10 USC 151.

"§ 151. Joint Chiefs of Staff: composition; functions

"(a) COMPOSITION.—There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

"(1) The Chairman.
"(2) The Chief of Staff of the Army.
"(3) The Chief of Naval Operations.
"(4) The Chief of Staff of the Air Force.
"(5) The Commandant of the Marine Corps.

"(b) FUNCTION AS MILITARY ADVISERS.—(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, and the Secretary of Defense.

"(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, and the Secretary of Defense as specified in subsections (d) and (e).

"(c) CONSULTATION BY CHAIRMAN.—(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as he considers appropriate, consult with and seek the advice of—

"(A) the other members of the Joint Chiefs of Staff; and
"(B) the commanders of the unified and specified combatant commands.

"(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

"(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

"(2) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

"(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

100 STAT. 1006

"(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(g) MEETINGS OF JCS.—(1) The Chairman shall convene regular meetings of the Joint Chiefs of Staff.

"(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall—

"(A) preside over the Joint Chiefs of Staff;

"(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

"(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

"(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

"§ 152. Chairman: appointment; rank

10 USC 152.

"(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(2) In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term, but may be reappointed as provided in paragraph (1).

"(3) An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war.

"(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as—

"(A) the Vice Chairman of the Joint Chiefs of Staff;

"(B) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or

"(C) the commander of a unified or specified combatant command.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

"(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

10 USC 153.
100 STAT. 1007

"§ 153. Chairman: functions

"(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

"(1) STRATEGIC DIRECTION.—Assisting the President and the Secretary of Defense in providing for the strategic direction of the armed forces.

"(2) STRATEGIC PLANNING.—(A) Preparing strategic plans, including plans which conform with resource levels projected by the Secretary of Defense to be available for the period of time for which the plans are to be effective.

"(B) Preparing joint logistic and mobility plans to support those strategic plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

"(C) Performing net assessments to determine the capabilities of the armed forces of the United States and its allies as compared with those of their potential adversaries.

"(3) CONTINGENCY PLANNING; PREPAREDNESS.—(A) Providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense.

"(B) Preparing joint logistic and mobility plans to support those contingency plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

"(C) Advising the Secretary on critical deficiencies and strengths in force capabilities (including manpower, logistic, and mobility support) identified during the preparation and review of contingency plans and assessing the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans.

"(D) Establishing and maintaining, after consultation with the commanders of the unified and specified combatant commands, a uniform system of evaluating the preparedness of each such command to carry out missions assigned to the command.

"(4) ADVICE ON REQUIREMENTS, PROGRAMS, AND BUDGET.—(A) Advising the Secretary, under section 163(b)(2) of this title, on the priorities of the requirements identified by the commanders of the unified and specified combatant commands.

"(B) Advising the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for a fiscal year conform with the priorities established in strategic plans and with the priorities established for the requirements of the unified and specified combatant commands.

"(C) Submitting to the Secretary alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities referred to in clause (B).

"(D) Recommending to the Secretary, in accordance with section 166 of this title, a budget proposal for activities of each unified and specified combatant command.

100 STAT. 1008

"(E) Advising the Secretary on the extent to which the major programs and policies of the armed forces in the area of manpower conform with strategic plans.

"(F) Assessing military requirements for defense acquisition programs.

"(5) DOCTRINE, TRAINING, AND EDUCATION.—(A) Developing doctrine for the joint employment of the armed forces.

"(B) Formulating policies for the joint training of the armed forces.

"(C) Formulating policies for coordinating the military education and training of members of the armed forces.

"(6) OTHER MATTERS.—(A) Providing for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations.

"(B) Performing such other duties as may be prescribed by law or by the President or the Secretary of Defense.

"(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chairman shall consider (among other matters) the following:

"(A) Changes in the nature of the threats faced by the United States.

"(B) Unnecessary duplication of effort among the armed forces.

"(C) Changes in technology that can be applied effectively to warfare.

"(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman.

"§ 154. Vice Chairman

10 USC 154.

"(a) APPOINTMENT.—(1) There is a Vice Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

"(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

"(3) The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

"(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer—

"(A) has the joint specialty under section 661 of this title; and

"(B) has served in at least one joint duty assignment (as defined under section 668(b) of this title) as a general or flag officer.

100 STAT. 1009

"(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

"(c) DUTIES.—The Vice Chairman performs such duties as may be prescribed by the Chairman with the approval of the Secretary of Defense.

"(d) FUNCTION AS ACTING CHAIRMAN.—When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

"(e) SUCCESSION AFTER CHAIRMAN AND VICE CHAIRMAN.—When there is a vacancy in the offices of both Chairman and Vice Chairman or in the absence or disability of both the Chairman and the Vice Chairman, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the President shall designate a member of the Joint Chiefs of Staff to act as and perform the duties of the Chairman until a successor to the Chairman or Vice Chairman is appointed or the absence or disability of the Chairman or Vice Chairman ceases.

"(f) PARTICIPATION IN JCS MEETINGS.—The Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.

"(g) GRADE AND RANK.—The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

10 USC 155.

"§ 155. Joint Staff

"(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff and the Vice Chairman in carrying out their responsibilities.

"(2) Officers of the armed forces (other than the Coast Guard) assigned to serve on the Joint Staff shall be selected by the Chairman in approximately equal numbers from—

"(A) the Army;

"(B) the Navy and the Marine Corps; and

"(C) the Air Force.

"(3) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the Secretary of the military department having jurisdiction over that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

"(b) DIRECTOR.—The Chairman of the Joint Chiefs of Staff, after consultation with the other members of the Joint Chiefs of Staff and with the approval of the Secretary of Defense, may select an officer to serve as Director of the Joint Staff.

"(c) MANAGEMENT OF JOINT STAFF.—The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman prescribes and shall perform such duties under such procedures as the Chairman prescribes.

100 STAT. 1010

"(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide—

"(1) for the unified strategic direction of the combatant forces;

"(2) for their operation under unified command; and

"(3) for their integration into an efficient team of land, naval, and air forces.

"(e) PROHIBITION OF FUNCTION AS ARMED FORCES GENERAL STAFF.—The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines.

"(f) TOUR OF DUTY OF JOINT STAFF OFFICERS.—(1) An officer who is assigned or detailed to permanent duty on the Joint Staff may not serve for a tour of duty of more than four years. However, such a tour of duty may be extended with the approval of the Secretary of Defense.

"(2) In accordance with procedures established by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff may suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. Upon receipt of such a recommendation, the Secretary concerned shall promptly reassign the officer.

"(3) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to permanent duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary.

"(4) Paragraphs (1) and (3) do not apply—

"(A) in time of war; or

"(B) during a national emergency declared by the President.

"(g) LIMITATION ON SIZE OF JOINT STAFF.—(1) Effective on October 1, 1988, the total number of members of the armed forces and civilian personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,627.

"(2) Paragraph (1) does not apply—

"(A) in time of war; or

"(B) during a national emergency declared by Congress.

"(h) COMPOSITION OF JOINT STAFF.—(1) The Joint Staff is composed of all members of the armed forces and civilian employees assigned or detailed to permanent duty in the executive part of the Department of Defense to perform the functions and duties prescribed under subsections (a) and (c).

"(2) The Joint Staff does not include members of the armed forces or civilian employees assigned or detailed to permanent duty in a military department.".

SEC. 202. PROVISIONS RELATING TO VICE CHAIRMAN

(a) EXEMPTION OF VICE CHAIRMAN FROM 4-STAR GRADE LIMITATION.—Section 525(b)(3) is amended by inserting "or Vice Chairman" after "Chairman". 10 USC 525.

(b) RANK OF VICE CHAIRMAN.—Section 743 is amended—

(1) by striking out "and" after "Chief of Naval Operations,";

100 STAT. 1011

(2) by inserting ", and the Commandant of the Marine Corps" after "Air Force"; and

(3) by inserting "and the Vice Chairman" after "Chairman".

SEC. 203. PARTICIPATION IN NATIONAL SECURITY COUNCIL MEETINGS

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

"(e) The Chairman (or in his absence the Vice Chairman) of the Joint Chiefs of Staff may, in his role as principal military adviser to the National Security Council and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

SEC. 204. TRANSITION

(a) PREPAREDNESS EVALUATION SYSTEM.—The uniform system of evaluating the preparedness of each unified and specified combatant command required to be established by paragraph (3)(D) of section 153(a) of title 10, United States Code, as added by section 201 of this Act, shall be established not later than one year after the date of the enactment of this Act. 10 USC 153 note.

(b) DATE FOR FIRST REPORT.—The first report under section 153(b) of title 10, United States Code, as added by section 201 of this Act, shall be submitted by the Chairman of the Joint Chiefs of Staff not later than two years after the date of the enactment of this Act. 10 USC 153 note.

(c) WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS VICE CHAIRMAN OF JCS.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 154(b) of title 10, United States Code (as added by section 201 of this Act), relating to requirements for appointment of an officer as Vice Chairman of the Joint Chiefs of Staff. 10 USC 154 note.

(2) In exercising such waiver authority, the President may—

(A) waive the requirement that the officer have the joint specialty;

(B) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(C) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3)(A) A waiver under paragraph (2)(A) may not be made more than two years after the date of the enactment of this Act.

(B) A waiver under paragraph (2)(B) or (2)(C) may not be made more than four years after the date of the enactment of this Act.

PART B—COMBATANT COMMANDS

SEC. 211. ESTABLISHMENT OF COMBATANT COMMANDS AND AUTHORITY OF COMMANDERS

10 USC 101 *et seq.*

(a) IN GENERAL.—Part I of subtitle A is amended by inserting after chapter 5 the following new chapter:

100 STAT. 1012

"CHAPTER 6—COMBATANT COMMANDS

"Sec.
"161. Combatant commands: establishment.
"162. Combatant commands: assigned forces; chain of command.
"163. Role of Chairman of Joint Chiefs of Staff.
"164. Commanders of combatant commands: assignment; powers and duties.
"165. Combatant commands: administration and support.
"166. Combatant commands: budget proposals.

10 USC 161.

"§ 161. Combatant commands: establishment

President of U.S.

"(a) UNIFIED AND SPECIFIED COMBATANT COMMANDS.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

"(1) establish unified combatant commands and specified combatant commands to perform military missions; and

"(2) prescribe the force structure of those commands.

"(b) PERIODIC REVIEW.—(1) The Chairman periodically (and not less often than every two years) shall—

"(A) review the missions, responsibilities (including geographic boundaries), and force structure of each combatant command; and

"(B) recommend to the President, through the Secretary of Defense, any changes to such missions, responsibilities, and force structures as may be necessary.

President of U.S.

"(2) Except during time of hostilities or imminent threat of hostilities, the President shall notify Congress not more than 60 days after—

"(A) establishing a new combatant command; or

"(B) significantly revising the missions, responsibilities, or force structure of an existing combatant command.

"(c) DEFINITIONS.—In this chapter:

"(1) The term 'unified combatant command' means a military command which has broad, continuing missions and which is composed of forces from two or more military departments.

"(2) The term 'specified combatant command' means a military command which has broad, continuing missions and which is normally composed of forces from a single military department.

"(3) The term 'combatant command' means a unified combatant command or a specified combatant command.

"§ 162. Combatant commands: assigned forces; chain of command

"(a) ASSIGNMENT OF FORCES.—(1) Except as provided in paragraph (2), the Secretaries of the military departments shall assign all

forces under their jurisdiction to unified and specified combatant commands to perform missions assigned to those commands. Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned. The Secretary of Defense shall ensure that such assignments are consistent with the force structure prescribed by the President for each combatant command.

"(2) Except as otherwise directed by the Secretary of Defense, forces to be assigned by the Secretaries of the military departments to the combatant commands under paragraph (1) do not include forces assigned to carry out functions of the Secretary of a military department listed in sections 3013(b), 5013(b), and 8013(b) of this title.

"(3) A force assigned to a combatant command under this section may be transferred from the command to which it is assigned only—

"(A) by authority of the Secretary of Defense; and

"(B) under procedures prescribed by the Secretary and approved by the President.

"(4) Except as otherwise directed by the Secretary of Defense, all forces operating within the geographic area assigned to a unified combatant command shall be assigned to, and under the command of, the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

"(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

"(1) from the President to the Secretary of Defense; and

"(2) from the Secretary of Defense to the commander of the combatant command.

"§ 163. Role of Chairman of Joint Chiefs of Staff

10 USC 163.

"(a) COMMUNICATIONS THROUGH CHAIRMAN OF JCS; ASSIGNMENT OF DUTIES.—Subject to the limitations in section 152(c) of this title, the President may—

"(1) direct that communications between the President or the Secretary of Defense and the commanders of the unified and specified combatant commands be transmitted through the Chairman of the Joint Chiefs of Staff; and

"(2) assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

"(b) OVERSIGHT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Secretary of Defense may assign to the Chairman of the Joint Chiefs of Staff responsibility for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the commanders of the combatant commands prescribed in section 164(b)(2) of this title.

"(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands, especially on the operational requirements of their commands. In performing such function, the Chairman shall—

"(A) confer with and obtain information from the commanders of the combatant commands with respect to the requirements of their commands;

"(B) evaluate and integrate such information;

"(C) advise and make recommendations to the Secretary of Defense with respect to the requirements of the combatant commands, individually and collectively; and

"(D) communicate, as appropriate, the requirements of the combatant commands to other elements of the Department of Defense.

"§ 164. Commanders of combatant commands: assignment; powers and duties

"(a) ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer—

100 STAT. 1014

"(A) has the joint specialty under section 661 of this title; and

"(B) has served in at least one joint duty assignment (as defined under section 668(b) of this title) as a general or flag officer.

"(2) The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.

"(b) RESPONSIBILITIES OF COMBATANT COMMANDERS.—(1) The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President.

"(2) Subject to the direction of the President, the commander of a combatant command—

"(A) performs his duties under the authority, direction, and control of the Secretary of Defense; and

"(B) is directly responsible to the Secretary for the preparedness of the command to carry out missions assigned to the command.

"(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.—(1) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

"(A) giving authoritative direction to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

"(B) prescribing the chain of command to the commands and forces within the command;

"(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

"(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

"(E) assigning command functions to subordinate commanders;

"(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command; and

"(G) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in subsections (e), (f), and (g) of this section and section 822(a) of this title, respectively.

"(2)(A) The Secretary of Defense shall ensure that a commander of a combatant command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command over those commands and forces. In carrying out this subparagraph, the Secretary shall consult with the Chairman of the Joint Chiefs of Staff.

"(B) The Secretary shall periodically review and, after consultation with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commander of the combatant command, assign authority to the commander of the combatant command for those aspects of administration and support that the

Secretary considers necessary to carry out missions assigned to the command. 100 STAT. 1015

"(3) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

"(d) AUTHORITY OVER SUBORDINATE COMMANDERS.—Unless otherwise directed by the President or the Secretary of Defense—

"(1) commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the commander of the combatant command has been assigned authority under subsection (c);

"(2) the commander of a command or force referred to in clause (1) shall communicate with other elements of the Department of Defense on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command;

"(3) other elements of the Department of Defense shall communicate with the commander of a command or force referred to in clause (1) on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command; and

"(4) if directed by the commander of the combatant command, the commander of a command or force referred to in clause (1) shall advise the commander of the combatant command of all communications to and from other elements of the Department of Defense on any matter for which the commander of the combatant command has not been assigned authority under subsection (c).

"(e) SELECTION OF SUBORDINATE COMMANDERS.—(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only— 10 USC 601.

"(A) with the concurrence of the commander of the combatant command; and

"(B) in accordance with procedures established by the Secretary of Defense.

"(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

"(3) The commander of a combatant command shall—

"(A) evaluate the duty performance of each commander of a command directly subordinate to the commander of such combatant command; and

"(B) submit the evaluation to the Secretary of the military department concerned and the Chairman of the Joint Chiefs of Staff.

100 STAT. 1016

"(f) COMBATANT COMMAND STAFF.—(1) Each unified and specified combatant command shall have a staff to assist the commander of the command in carrying out his responsibilities. Positions of responsibility on the combatant command staff shall be filled by officers from each of the armed forces having significant forces assigned to the command.

"(2) An officer may be assigned to a position on the staff of a combatant command or, in the case of such a position that is

10 USC 601. designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

"(A) with the concurrence of the commander of such command; and

"(B) in accordance with procedures established by the Secretary of Defense.

"(3) The Secretary of Defense may waive the requirement under paragraph (2) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer to serve on the staff of the combatant command if the Secretary of Defense determines that such action is in the national interest.

"(g) AUTHORITY TO SUSPEND SUBORDINATES.—In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

"§ 165. Combatant commands: administration and support

"(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide for the administration and support of forces assigned to each combatant command.

"(b) RESPONSIBILITY OF SECRETARIES OF MILITARY DEPARTMENTS.—Subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

"(c) ASSIGNMENT OF RESPONSIBILITY TO OTHER COMPONENTS OF DOD.—After consultation with the Secretaries of the military departments, the Secretary of Defense may assign the responsibility (or any part of the responsibility) for the administration and support of forces assigned to the combatant commands to other components of the Department of Defense (including Defense Agencies and combatant commands). A component assigned such a responsibility shall discharge that responsibility subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title.

"§ 166. Combatant commands: budget proposals

"(a) COMBATANT COMMAND BUDGETS.—The Secretary of Defense shall include in the annual budget of the Department of Defense submitted to Congress a separate budget proposal for such activities of each of the unified and specified combatant commands as may be determined under subsection (b). 100 STAT. 1017

"(b) CONTENT OF PROPOSALS.—A budget proposal under subsection (a) for funding of activities of a combatant command shall include funding proposals for such activities of the combatant command as the Secretary (after consultation with the Chairman of the Joint Chiefs of Staff) determines to be appropriate for inclusion. Activities of a combatant command for which funding may be requested in such a proposal include the following:

"(1) Joint exercises.

"(2) Force training.

"(3) Contingencies.

"(4) Selected operations.".

(b) COURT-MARTIAL JURISDICTION.—Section 822(a) (article 22(a) of the Uniform Code of Military Justice) is amended— 10 USC 822.

(1) by redesignating paragraphs (2) through (7) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (1) the following new paragraphs (2) and (3):

"(2) the Secretary of Defense;

"(3) the commanding officer of a unified or specified combatant command;".

(c) Repeal of Section 124.—(1) Section 124 is repealed.

(2) The table of sections at the beginning of chapter 3 is amended by striking out the item relating to that section.

SEC. 212. INITIAL REVIEW OF COMBATANT COMMANDS

10 USC 161 note.

(a) Matters To Be Considered.—The first review of the missions, responsibilities (including geographic boundaries), and force structure of the unified and specified combatant commands under section 161(b) of title 10, United States Code, as added by section 211 of this Act, shall include consideration of the following:

(1) Creation of a unified combatant command for strategic missions which would combine—

(A) the missions, responsibilities, and forces of the Strategic Air Command;

(B) the strategic missions, responsibilities, and forces of the Army and Navy; and

(C) other appropriate strategic missions, responsibilities, and forces of the armed forces.

(2) Creation of a unified combatant command for special operations missions which would combine the special operations missions, responsibilities, and forces of the armed forces.

(3) Creation of a unified combatant command for transportation missions which would combine the transportation missions, responsibilities, and forces of the Military Traffic Management Command, the Military Sealift Command, and the Military Airlift Command.

(4) Creation of a unified combatant command for missions relating to defense of Northeast Asia. Asia.

(5) Revision of the geographic area for which the United States Central Command has responsibility so as to include—

(A) the ocean areas adjacent to Southwest Asia; and

(B) the region of the Middle East that is assigned to the United States European Command. Middle East.

(6) Revision of the geographic area for which the United States Southern Command has responsibility so as to include the ocean areas adjacent to Central America. Central America.

(7) Revision of the geographic area for which the United States Pacific Command has responsibility so as to include all of the State of Alaska. Alaska.

100 STAT. 1018

(8) Revision of the missions and responsibilities of the United States Readiness Command so as to include—

(A) an enhanced role in securing the borders of the United States; and

(B) assignment of regions of the world not assigned as part of the geographic area of responsibility of any other unified combatant command.

(9) Revision of the division of missions and responsibilities between the United States Central Command and the United States Readiness Command.

(10) Elimination of the command designated as United States Forces, Caribbean.

(b) Deadline.—The first report to the President under such section shall be made not later than one year after the date of the enactment of this Act. Reports.

SEC. 213. REPEAL OF CERTAIN LIMITATIONS ON COMMAND STRUCTURE

(a) Prohibition Against Consolidating Functions of the Military Transportation Commands.—Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747), is repealed. 10 USC 133 note.

(b) Prohibition Against Altering Command Structure for Military Forces in Alaska.—Section 8106 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1221)), is repealed.

SEC. 214. TRANSITION

10 USC 162 note. (a) Assignment of Forces to Combatant Commands.—Section 162(a) of title 10, United States Code (as added by section 211 of this Act), shall be implemented not later than 90 days after the date of the enactment of this Act.

10 USC 164 note. (b) Waiver of Qualifications for Assignment as Combatant Commander.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 164(a) of title 10, United States Code (as added by section 201 of this Act), relating to the assignment of commanders of the combatant commands.

(2) In exercising such waiver authority, the President may, in the case of any officer—

(A) waive the requirement that the officer have the joint specialty;

(B) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(C) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3)(A) A waiver under paragraph (2)(A) may not be made more than two years after the date of the enactment of this Act.

(B) A waiver under paragraph (2)(B) or (2)(C) may not be made
100 STAT. 1019 more than four years after the date of the enactment of this Act.

(4) A waiver under this subsection may be made only on a case-by-case basis.

Effective date.
10 USC 164 note. (c) Selection and Suspension From Duty of Subordinate Officers.—Subsections (e), (f), and (g) of section 164 of title 10, United States Code (as added by section 211 of this Act), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act, or on such earlier date as may be prescribed by the Secretary of Defense.

Effective date.
10 USC 166 note. (d) Budget Proposals.—Section 166 of title 10, United States Code (as added by section 211 of this Act), shall take effect with budget proposals for fiscal year 1989.

TITLE III—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

SEC. 301. ESTABLISHMENT AND MANAGEMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

(a) In General.—Chapter 8 is amended—

(1) by redesignating section 191 as section 201; and

(2) by striking out the chapter heading and the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

"Subchapter	Sec.
" I. Common Supply and Service Activities	191
"II. Miscellaneous Defense Agency Matters	201

"SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES

"Sec.

"191. Secretary of Defense: authority to provide for common performance of supply or service activities.
"192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense.
"193. Combat support agencies: oversight.
"194. Limitations on personnel.

"§ 191. Secretary of Defense: authority to provide for common performance of supply or service activities

10 USC 191.

"(a) Authority.—Whenever the Secretary of Defense determines such action would be more effective, economical, or efficient, the Secretary may provide for the performance of a supply or service activity that is common to more than one military department by a single agency of the Department of Defense.

"(b) Designation of Common Supply or Service Agency.—Any agency of the Department of Defense established under subsection (a) (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) for the performance of a supply or service activity referred to in such subsection shall be designated as a Defense Agency or a Department of Defense Field Activity.

100 STAT. 1020

"§ 192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

10 USC 192.

"(a) Overall Supervision.—(1) The Secretary of Defense shall assign responsibility for the overall supervision of each Defense Agency and Department of Defense Field Activity designated under section 191(b) of this title—

"(A) to a civilian officer within the Office of the Secretary of Defense listed in section 131(b) of this title; or

"(B) to the Chairman of the Joint Chiefs of Staff.

"(2) An official assigned such a responsibility with respect to a Defense Agency or Department of Defense Field Activity shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such agency or activity conform with the requirements of the military departments and of the unified and specified combatant commands.

"(3) This subsection does not apply to the Defense Intelligence Agency or the National Security Agency.

"(b) Program and Budget Review.—The Secretary of Defense shall establish procedures to ensure that there is full and effective review of the program recommendations and budget proposals of each Defense Agency and Department of Defense Field Activity.

"(c) Periodic Review.—(1) Periodically (and not less often than every two years), the Secretary of Defense shall review the services and supplies provided by each Defense Agency and Department of Defense Field Activity to ensure that—

"(A) there is a continuing need for each such agency and activity; and

"(B) the provision of those services and supplies by each such agency and activity, rather than by the military departments, is a more effective, economical, or efficient manner of providing those services and supplies or of meeting the requirements for combat readiness of the armed forces.

"(2) Paragraph (1) shall apply to the National Security Agency as determined appropriate by the Secretary, in consultation with the Director of Central Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

"§ 193. Combat support agencies: oversight

Reports.

"(a) Combat Readiness.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

"(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

"(B) any recommendations that the Chairman considers appropriate.

"(2) In preparing each such report, the Chairman shall review the plans of each such agency with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, take steps to provide for any revision of those plans that the Chairman considers appropriate.

100 STAT. 1021

"(b) Participation in Joint Training Exercises.—The Chairman shall—

"(1) provide for the participation of the combat support agencies in joint training exercises to the extent necessary to ensure that those agencies are capable of performing their support missions with respect to a war or threat to national security; and

"(2) assess the performance in joint training exercises of each such agency and, in accordance with guidelines established by the Secretary of Defense, take steps to provide for any change that the Chairman considers appropriate to improve that performance.

Reports.

"(c) Readiness Reporting System.—The Chairman shall develop, in consultation with the director of each combat support agency, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each such agency to perform with respect to a war or threat to national security.

"(d) Review of National Security Agency.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency, but only with respect to combat support functions the Agency performs for the Department of Defense.

"(2) The Secretary, after consulting with the Director of Central Intelligence, shall establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency.

"(e) Combat Support Capabilities of DIA and NSA.—The Secretary of Defense, in consultation with the Director of Central Intelligence, shall develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency and the National Security Agency to accomplish assigned missions in support of military combat operations.

"(f) Definition of Combat Support Agency.—In this section, the term 'combat support agency' means any of the following Defense Agencies:

"(1) The Defense Communications Agency.

"(2) The Defense Intelligence Agency.

"(3) The Defense Logistics Agency.

"(4) The Defense Mapping Agency.

"(5) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

"§ 194. Limitations on personnel

10 USC 194.

"(a) CAP ON HEADQUARTERS MANAGEMENT PERSONNEL.—After September 30, 1989, the total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities or management headquarters support activities in the Defense Agencies and Department of Defense Field Activities may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

"(b) CAP ON OTHER PERSONNEL.—After September 30, 1989, the total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned to management headquarters activities or management headquarters support activities, may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

100 STAT. 1022

"(c) PROHIBITION AGAINST CERTAIN ACTIONS TO EXCEED LIMITATIONS.—The limitations in subsections (a) and (b) may not be exceeded by recategorizing or redefining duties, functions, offices, or organizations.

"(d) EXCLUSION OF NSA.—The National Security Agency shall be excluded in computing and maintaining the limitations required by this section.

"(e) WAIVER.—The limitations in this section do not apply—

"(1) in time of war; or

"(2) during a national emergency declared by Congress.

"(f) DEFINITIONS.—In this section, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities' and dated January 7, 1985.

"SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

"Sec.

"201. Unauthorized use of Defense Intelligence Agency name, initials, or seal.".

(b) CONFORMING AMENDMENTS.—(1) Section 125 is amended by striking out subsection (d).

Ante, p. 996.

(2) Subsection (c)(2) of section 113 (as redesignated by section 101(a)) is amended by striking out "section 125" and inserting in lieu thereof "sections 125 and 191".

Ante, p. 996; *post*, p. 1075.

SEC. 302. DEFINITIONS OF DEFENSE AGENCY AND DEPARTMENT OF DEFENSE FIELD ACTIVITY

Section 101 is amended by adding at the end the following new paragraphs:

Ante, p. 703.

"(44) 'Defense Agency' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

"(B) that is designated by the Secretary of Defense as a Defense Agency.

"(45) 'Department of Defense Field Activity' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before the date of the enactment of the Goldwater-Nichols Department of Defense

100 STAT. 1023

Reorganization Act of 1986)) to perform a supply or service activity common to more than one military department; and

"(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.".

10 USC 191 note.

SEC. 303. REASSESSMENT OF DEFENSE AGENCIES AND DOD FIELD ACTIVITIES

(a) SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall conduct a study of the functions and organizational structure of the Defense Agencies and Department of Defense Field Activities. The study shall determine the most effective, economical, or efficient means of providing supply or service activities common to more than one military department, after considering the matters set forth in subsection (d) and the reports submitted under subsection (b).

(2) To the extent that the most effective, economical, or efficient means of providing those activities is determined under paragraph (1) to be the existing Defense Agency and Department of Defense Field Activity structure, the study shall analyze methods to improve the performance and responsiveness of Defense Agencies and Department of Defense Field Activities with respect to the entities to which they provide supplies and services, particularly with regard to the unified and specified combatant commands.

(b) SERVICE SECRETARIES AND CHAIRMAN OF THE JCS.—The Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff shall each conduct a study of the functions and organizational structure of the Defense Agencies and Department of Defense Field Activities. The Secretaries and Chairman shall each submit a report to the Secretary of Defense on such study at a time specified by the Secretary. Each such report shall include a discussion of and recommendations concerning each matter set forth in subsection (d).

Reports.

(c) NATIONAL SECURITY AGENCY.—This section shall apply to the National Security Agency as determined appropriate by the Secretary of Defense, in consultation with the Director of Central Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

(d) MATTERS CONSIDERED.—The studies required by subsections (a) and (b) shall consider the following matters:

(1) Whether the existing allocation of functions to, and organizational structure of, the Defense Agencies and Department of Defense Field Activities meet the statutory requirement of providing a supply or service activity common to more than one military department in a more effective, economical, or efficient manner.

(2) Alternative allocations of authority and functions assigned to the Defense Agencies and Department of Defense Field Activities, including—

(A) various possible redistributions of responsibilities among those agencies and activities;

(B) transfer of the responsibility for those functions to—

(i) the Secretaries of the military departments;

(ii) the appropriate officers in the Office of the Secretary of Defense;

100 STAT. 1024

(iii) the Chairman of the Joint Chiefs of Staff; or

(iv) the commanders of unified or specified combatant commands;

(C) creation of new Defense Agencies or Department of Defense Field Activities;

(D) consolidation of two or more such agencies and activities;

(E) elimination of any such agency or activity; and

(F) other organizational changes in the Department of Defense designed to make the performance of those functions more effective, economical, or efficient.

(3) Whether the requirements of the amendments made by section 301 will have the effect of ensuring the readiness and responsiveness of the Defense Agencies in the event of a war or threat to national security and whether any additional legislation is necessary to ensure such readiness and responsiveness.

(4) Additional legislative or administrative actions that the Secretary considers necessary to ensure effective oversight of Defense Agency and Department of Defense Field Activity resource management, personnel policies, and budget procedures and to clarify supervisory responsibilities.

(5) Whether the findings and recommendations of the report of March 1979 entitled "Report to the Secretary of Defense of the Defense Agency Review" and directed by Major General Theodore Antonelli, United States Army (Retired), should be the basis for additional legislative or administrative actions.

(e) REPORT.—The Secretary of Defense shall submit to Congress a report that includes the following:

(1) A report on the study required by subsection (a) that includes—

(A) a discussion of and recommendations concerning each matter set forth in subsection (d); and

(B) a discussion of the reports required by subsection (b).

(2) A copy of each report required by subsection (b).

(3) A study of the improved application of computer systems to functions of Defense Agencies and Department of Defense Field Activities, including a plan for the rapid replacement, where necessary, of existing automated data processing equipment with new equipment.

(4) Plans to achieve reductions in the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities (other than the National Security Agency) by 5 percent, 10 percent, and 15 percent of the total number of such members and employees projected to be assigned or detailed to such duty on September 30, 1988, together with a discussion of the implications of each such reduction and a draft of any legislation that would be required to implement each such plan.

(f) DEADLINE FOR SUBMISSION.—The report required by subsection (e) shall be submitted not later than one year after the date of the enactment of this Act.

SEC. 304. TRANSITION

(a) SECRETARY OF DEFENSE REVIEW OF DEFENSE AGENCIES.—The first review under section 192(c) of title 10, United States Code (as added by section 301(a)), shall be completed not later than two years after the date that the report under section 303(e) is required to be submitted to Congress. 10 USC 192 note.

100 STAT. 1025

(b) REPORT AND OTHER ACTIONS BY CHAIRMAN OF JCS.—The first report under subsection (a) of section 193 of such title (as added by section 301(a)) shall be submitted, and subsections (b) and (c) of such section shall be implemented, not later than one year after the date of the enactment of this Act. The Secretary of Defense shall provide a report on the implementation of such subsections (b) and (c) in the report of the Secretary submitted to Congress for 1988 under section 113(c) of title 10, United States Code (as redesignated by section 101(a)). 10 USC 193 note.

TITLE IV—JOINT OFFICER PERSONNEL POLICY

SEC. 401. JOINT OFFICER MANAGEMENT

(a) ESTABLISHMENT OF JOINT OFFICER MANAGEMENT POLICIES.—Part II of subtitle A is amended by inserting after chapter 37 the following new chapter: 10 USC 501 *et seq.*

"CHAPTER 38—JOINT OFFICER MANAGEMENT

"Sec.
"661. Management policies for joint specialty officers.
"662. Promotion policy objectives for joint officers.
"663. Education.
"664. Length of joint duty assignments.
"665. Procedures for monitoring careers of joint officers.
"666. Reserve officers not on the active-duty list.
"667. Annual report to Congress.
"668. Definitions.

10 USC 661.

"§ 661. Management policies for joint specialty officers

"(a) Establishment.—The Secretary of Defense shall establish policies, procedures, and practices for the effective management of officers of the Army, Navy, Air Force, and Marine Corps on the active-duty list who are particularly trained in, and oriented toward, joint matters (as defined in section 668 of this title). Such officers shall be identified or designated (in addition to their principal military occupational specialty) in such manner as the Secretary of Defense directs. For purposes of this chapter, officers to be managed by such policies, procedures, and practices are referred to as having, or having been nominated for, the 'joint specialty'.

"(b) Numbers and Selection.—(1) The number of officers with the joint specialty shall be determined by the Secretary. Such number shall be large enough to meet the requirements of subsection (d).

"(2) Officers shall be selected for the joint specialty by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff. The Secretaries of the military departments shall nominate officers for selection for the joint specialty. Nominations shall be made from among officers—

"(A) who meet qualifications prescribed by the Secretary of Defense; and

"(B) who—

"(i) are senior captains or, in the case of the Navy, senior lieutenants; or

"(ii) are serving in the grade of major or lieutenant commander or a higher grade.

100 STAT. 1026

"(c) Education and Experience Requirements.—(1) An officer who is nominated for the joint specialty may not be selected for the joint specialty until the officer—

"(A) successfully completes an appropriate program at a joint professional military education school; and

"(B) after completing such program of education, successfully completes a full tour of duty in a joint duty assignment.

"(2) An officer who has a critical occupational specialty involving combat operations (as designated by the Secretary of Defense) and who is nominated for the joint specialty may be selected for the joint specialty after successful completion of a joint duty assignment of not less than two years and successful completion of a program under paragraph (1)(A). An officer selected for the joint specialty under this paragraph shall be required to complete the generally applicable requirements for selection under paragraph (1)(B) as soon as practicable after such officer's selection.

"(d) Number of Joint Duty Assignments.—(1) The Secretary of Defense shall ensure that approximately one-half of the joint duty assignment positions in grades above captain or, in the case of the Navy, lieutenant are filled at any time by officers who have (or have been nominated for) the joint specialty.

"(2) The Secretary of Defense shall designate not fewer than 1,000 joint duty assignment positions as critical joint duty assignment positions. Each such position shall be held only by an officer with the joint specialty.

"(e) Career Guidelines.—The Secretary, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish career guidelines for officers with the joint specialty. Such guidelines shall include guidelines for—

"(1) selection;

"(2) military education;
"(3) training;
"(4) types of duty assignments; and
"(5) such other matters as the Secretary considers appropriate.

"§ 662. Promotion policy objectives for joint officers

10 USC 662.

"(a) QUALIFICATIONS.—The Secretary of Defense shall ensure that the qualifications of officers assigned to joint duty assignments are such that—

"(1) officers who are serving on, or have served on, the Joint Staff are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force;

"(2) officers who have the joint specialty are expected, as a group, to be promoted at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and

"(3) officers who are serving in, or have served in, joint duty assignments (other than officers covered in paragraphs (1) and (2)) are expected, as a group, to be promoted at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category.

"(b) REPORT.—The Secretary of Defense shall periodically (and not less often than every six months) report to Congress on the promotion rates of officers who are serving in, or have served in, joint duty assignments, especially with respect to the record of officer selection boards in meeting the objectives of clauses (1), (2), and (3) of subsection (a). If such promotion rates fail to meet such objectives, the Secretary shall immediately notify Congress of such failure and of what action the Secretary has taken or plans to take to prevent further failures.

100 STAT. 1027

"§ 663. Education

10 USC 663.

"(a) CAPSTONE COURSE FOR NEW GENERAL AND FLAG OFFICERS.—(1) Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the other armed forces.

"(2) Subject to paragraph (3), the Secretary of Defense may waive paragraph (1)—

"(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

"(B) when necessary for the good of the service;

"(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

"(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

"(3) The authority of the Secretary of Defense to grant a waiver under paragraph (2) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

"(b) JOINT MILITARY EDUCATION SCHOOLS.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall periodically review and revise the curriculum of each school of the National Defense University (and of any other joint professional military education school) to enhance the education and training of officers in joint matters. The Secretary shall require such schools to maintain rigorous standards for the military education of officers with the joint specialty.

"(c) Other Professional Military Education Schools.—The Secretary of Defense shall require that each Department of Defense school concerned with professional military education periodically review and revise its curriculum for senior and intermediate grade officers in order to strengthen the focus on—

"(1) joint matters; and

"(2) preparing officers for joint duty assignments.

"(d) Post-Education Duty Assignments.—The Secretary of Defense shall ensure that—

"(1) unless waived by the Secretary in an individual case, each officer with the joint specialty who graduates from a joint professional military education school shall be assigned to a joint duty assignment for that officer's next duty assignment; and

"(2) a high proportion (which shall be greater than 50 percent) of the other officers graduating from a joint professional military education school also receive assignments to a joint duty assignment as their next duty assignment.

10 USC 664.

"§ 664. Length of joint duty assignments

"(a) General Rule.—The length of a joint duty assignment—

"(1) for general and flag officers shall be not less than three years; and

"(2) for other officers shall be not less than three and one-half years.

"(b) Waiver Authority.—The Secretary of Defense may waive subsection (a) in the case of any officer, but the Secretary shall ensure that the average length of joint duty assignments meets the standards prescribed in that subsection.

"(c) Certain Officers With Critical Combat Operations Skills.—Joint duty assignments of less than the period prescribed by subsection (a), but not less than two years, may be authorized for the purposes of section 661(c)(2) of this title. Such an assignment may not be counted for the purposes of determining the average length of joint duty assignments under subsection (b).

"(d) Exception.—(1) Subsection (a) does not apply in the case of an officer who fails to complete a joint duty assignment as the result of—

"(A) retirement;

"(B) separation from active duty; or

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title.

"(2) In computing the average length of joint duty assignments for purposes of this section, the Secretary of Defense shall exclude joint duty assignments not completed because of a reason specified in paragraph (1).

"§ 665. Procedures for monitoring careers of joint officers

"(a) Procedures.—(1) The Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff, shall establish procedures for overseeing the careers of—

"(A) officers with the joint specialty; and

"(B) other officers who serve in joint duty assignments.

"(2) Such oversight shall include monitoring of the implementation of the career guidelines established under section 661(e) of this title.

"(b) Function of Joint Staff.—The Secretary shall take such action as necessary to enhance the capabilities of the Joint Staff so that it can—

"(1) monitor the promotions and career assignments of officers with the joint specialty and of other officers who have served in joint duty assignments; and

"(2) otherwise advise the Chairman on joint personnel matters.

"§ 666. Reserve officers not on the active-duty list

"The Secretary of Defense shall establish personnel policies emphasizing education and experience in joint matters for reserve officers not on the active-duty list. Such policies shall, to the extent practicable for the reserve components, be similar to the policies provided by this chapter.

"§ 667. Annual report to Congress

10 USC 667.

"The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps):

Ante, p. 1022.

"(1) The number of officers selected for the joint specialty and their education and experience.

"(2) The promotion rate for officers considered for promotion from within the promotion zone who are serving on the Joint Staff compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade and the same competitive category, shown for all officers of the armed force and for officers serving on the headquarters staff of the armed force concerned.

"(3) The promotion rate for officers with the joint specialty, compared in the same manner as specified in paragraph (2).

"(4) The promotion rate for other officers who are serving in joint duty assignments, compared in the same manner as specified in paragraph (2).

"(5) The promotion rate for officers considered for promotion from below the promotion zone, shown for officers serving on the Joint Staff, officers with the joint specialty, and other officers serving in joint duty assignments, compared in the same manner as specified in paragraph (2).

"(6) An analysis of assignments of officers after selection for the joint specialty.

"(7) The average length of tours of duty in joint duty assignments—

"(A) for general and flag officers, shown separately for assignments to the Joint Staff and other joint duty assignments; and

"(B) for other officers, shown separately for assignments to the Joint Staff and other joint duty assignments.

"(8) In any case in which the information under paragraphs (2) through (5) shows a significant imbalance between officers serving in joint duty assignments or having the joint specialty and other officers, a description of what action has been taken (or is planned to be taken) by the Secretary to correct the imbalance.

"(9) An analysis of the extent to which the Secretary of each military department is providing officers to fill that department's share (as determined by law or by the Secretary of Defense) of Joint Staff and other joint duty assignments, including the reason for any significant failure by a military department to fill its share of such positions and a discussion of the actions being taken to correct the shortfall.

"(10) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the performance of the Department of Defense and the performance of each military department in carrying out this chapter.

"§ 668. Definitions

"(a) Joint Matters.—In this chapter, the term 'joint matters' means matters relating to the integrated employment of land, sea, 100 STAT. 1030 and air forces, including matters relating to—

"(1) national military strategy;

"(2) strategic planning and contingency planning; and

"(3) command and control of combat operations under unified command.

Regulations. "(b) Joint Duty Assignment.—(1) The Secretary of Defense shall by regulation define the term 'joint duty assignment' for the purposes of this chapter. That definition shall be limited to assignments in which the officer gains significant experience in joint matters and shall exclude—

"(A) assignments for joint training or joint education; and

"(B) assignments within an officer's own military department.

"(2) The Secretary shall publish a list showing—

"(A) the positions that are joint duty assignment positions under such regulation and the number of such positions; and

"(B) of the positions listed under subparagraph (A), those that are critical joint duty assignment positions and the number of such positions.".

(b) Clerical Amendments.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by inserting after the item relating to chapter 37 the following new item:

"38. Joint Officer Management .... 661".

SEC. 402. PROMOTION PROCEDURES FOR JOINT OFFICERS

10 USC 612. (a) Composition of Selection Boards.—Section 612 is amended by adding at the end the following new subsection:

"(c) Each selection board convened under section 611(a) of this title that will consider officers who are serving in, or have served in, joint duty assignments shall include at least one officer designated by the Chairman of the Joint Chiefs of Staff who is currently serving in a joint duty assignment. The Secretary of Defense may waive the preceding sentence in the case of any selection board of the Marine Corps.".

(b) Guidance to Selection Boards.—Section 615 is amended—

(1) by inserting "(a)" before "The Secretary of the";

(2) by striking out "and" at the end of clause (4);

(3) by redesignating clause (5) as clause (6);

(4) by inserting after clause (4) the following new clause (5):

"(5) guidelines, based upon guidelines received by the Secretary from the Secretary of Defense under subsection (b), for the purpose of ensuring that the board gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments; and"; and

(5) by adding at the end the following new subsection:

"(b) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall furnish to the Secretaries of the military departments guidelines for the purpose of ensuring that each selection board convened under section 611(a) of this title gives appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments.".

(c) Review of Promotion Lists by Chairman of JCS.—Section 618 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

Reports. (2) by inserting after subsection (a) the following new subsection (b):
100 STAT. 1031

"(b)(1) After completing the requirements of subsection (a), the Secretary concerned, in the case of the report of a selection board that considered officers who are serving, or have served, in joint duty assignments, shall submit the report to the Chairman of the Joint Chiefs of Staff.

"(2) The Chairman, in accordance with guidelines furnished to the Chairman by the Secretary of Defense, shall review the report for the purpose of determining if—

"(A) the selection board acted consistent with the guidelines of the Secretary of Defense under section 615(b) of this title to ensure that selection boards give appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments; and *Ante*, p. 1030.

"(B) the selection board otherwise gave appropriate consideration to the performance in joint duty assignments of officers who are serving, or have served, in such assignments.

"(3) After reviewing the report, the Chairman shall return the report, with his determinations and comments, to the Secretary concerned.

"(4) If the Chairman determines that the board acted contrary to the guidelines of the Secretary of Defense under section 615(b) of this title or otherwise failed to give appropriate consideration to the performance of officers in joint duty assignments, the Secretary concerned may—

"(A) return the report, together with the Chairman's determinations and comments, to the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) for further proceedings in accordance with subsection (a); 10 USC 611.

"(B) convene a special selection board in the manner provided for under section 628 of this title; or

"(C) take other appropriate action to satisfy the concerns of the Chairman.

"(5) If, after completion of all actions taken under paragraph (4), the Secretary concerned and the Chairman remain in disagreement with respect to the report of a selection board, the Secretary concerned shall indicate such disagreement, and the reasons for such disagreement, as part of his transmittal of the report of the selection board to the Secretary of Defense under subsection (c). Such transmittal shall include any comments submitted by the Chairman."; and

(3) by adding at the end of paragraph (1) of subsection (c) (as redesignated by paragraph (1)) the following new sentence: "The Secretary of Defense shall, before transmitting the report of a selection board to the President, take appropriate action to resolve any disagreement between the Secretary concerned and the Chairman transmitted to him under subsection (b)(5).".

SEC. 403. CONSIDERATION OF JOINT DUTY IN SENIOR GENERAL AND FLAG OFFICER APPOINTMENTS AND ADVICE ON QUALIFICATIONS

Section 601 is amended by adding at the end the following new subsection:

"(d)(1) When an officer is recommended to the President for an initial appointment to the grade of lieutenant general or vice admiral, or for an initial appointment to the grade of general or admiral, the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense the Chairman's evaluation of the performance of that officer as a member of the Joint Staff and in other joint duty assignments. The Secretary of Defense shall submit the Chairman's evaluation to the President at the same time the recommendation for the appointment is submitted to the President.

100 STAT. 1032

"(2) Whenever a vacancy occurs in a position within the Department of Defense that the President has designated as a position of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral or in an office that is designated by law to carry such a grade, the Secretary of Defense shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.".

SEC. 404. JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE

10 USC 619.

Section 619 is amended by adding at the end the following new subsection:

"(e)(1) An officer may not be selected for promotion to the grade of brigadier general or rear admiral (lower half) unless the officer has served in a joint duty assignment.

"(2) Subject to paragraph (3), the Secretary of Defense may waive paragraph (1)—

"(A) when necessary for the good of the service;

"(B) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist;

"(C) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, chaplain, or judge advocate; and

"(D) until January 1, 1992, in the case of an officer who served before the date of the enactment of this subsection in an assignment (other than a joint duty assignment) that involved significant experience in joint matters (as determined by the Secretary).

"(3)(A) A waiver may be granted under paragraph (2) only on a case-by-case basis in the case of an individual officer.

"(B) In the case of a waiver under paragraph (2)(A), the Secretary shall provide that the first duty assignment as a general or flag officer of an officer for whom the waiver is granted shall be in a joint duty assignment.

"(C) The authority of the Secretary of Defense to grant a waiver under paragraph (2)(B), (2)(C), or (2)(D) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense.

Regulations.

"(4) The Secretary of Defense shall prescribe regulations to carry out this subsection. Such regulations shall specifically identify those categories of officers for which selection for promotion to brigadier general or, in the case of the Navy, rear admiral (lower half) is based primarily upon scientific and technical qualifications for which joint requirements do not exist.".

10 USC 113 note.

SEC. 405. ANNUAL REPORT ON IMPLEMENTATION

The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of title 10, United States Code (as redesignated by section 101(a)), for each year from 1987 through 1991 a detailed report on the implementation of this title and the amendments made by this title.

100 STAT. 1033

SEC. 406. TRANSITION

Effective date.
10 USC 661 note.

(a) Joint Duty Assignments.—(1) Section 661(d) of title 10, United States Code (as added by section 401), shall be implemented as rapidly as possible and not later than two years after the date of the enactment of this Act.

(2) The list of positions that are joint duty assignment positions, including identification of those positions that are critical joint duty assignment positions, required to be published by section 668(b)(2) of such title shall be published not later than six months after the date of the enactment of this Act.

10 USC 661 note.

(b) Joint Specialty.—

(1) Initial selections.—(A) In making the initial selections of officers for the joint specialty under section 661 of title 10, United States Code (as added by section 401 of this Act), the Secretary of Defense may waive the requirement of either subparagraph (A) or (B) (but not both) of subsection (c)(1) of such section in the case of any officer in a grade above captain or, in the case of the Navy, lieutenant.

(B) In applying such subparagraph (B) to the initial selections of officers for the joint specialty, the Secretary may in the case of any officer—

(i) waive the requirement that a joint duty assignment be served after the officer has completed an appropriate program at a joint professional military education school;

(ii) waive the requirement for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(iii) consider as a joint duty assignment any tour of duty served by the officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under the regulations in effect at the time the assignment began.

(C) A waiver under subparagraph (A) of this paragraph or under any provision of subparagraph (B) of this paragraph may only be made on a case-by-case basis.

(D) The authority of the Secretary of Defense to grant a waiver under subparagraph (A) or (B) of this paragraph may be delegated only to the Deputy Secretary of Defense.

Education.

(2) Requirement for high standards.—In exercising the authority provided by paragraph (1), the Secretary of Defense shall ensure that the highest standards of performance, education, and experience are established and maintained for officers selected for the joint specialty.

Termination date.

(3) Sunset.—The authority provided by paragraph (1) shall expire two years after the date of the enactment of this Act.

10 USC 661 note.

(c) Career Guidelines.—The career guidelines required to be established by section 661(e) of such title, the procedures required to be established by section 665(a) of such title, and the personnel policies required to be established by section 666 of such title (as added by section 401) shall be established not later than the end of the eight-month period beginning on the date of the enactment of this Act. The provisions of section 665(b) of such title shall be implemented not later than the end of such period.

10 USC 663 note.

(d) Education.—

100 STAT. 1034

(1) Capstone course.—Subsection (a) of section 663 of such title (as added by section 401) shall apply with respect to officers selected in reports of officer selection boards submitted to the Secretary concerned after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Review of military education schools.—(A) The first review under subsections (b) and (c) of such section shall be completed not later than 120 days after the date of the enactment of this Act. The Secretary of Defense shall submit to Congress a report on the results of the review at each Department of Defense school not later than 60 days thereafter.

Reports.

Effective date.

(B) Such subsections shall be implemented so that the revised curricula take effect with respect to courses beginning after July 1987.

Effective date.

(3) Post-education duty assignments.—Subsection (d) of such section shall take effect with respect to classes graduating from joint professional military education schools after January 1987.

10 USC 664 note.

(e) Length of Joint Duty Assignments.—Subsection (a) of section 664 of title 10, United States Code (as added by section 401), shall apply to officers assigned to joint duty assignments after the end of the 90-day period beginning on the date of the enactment of this Act. In computing an average under subsection (b) of such section, only joint duty assignments to which such subsection applies shall be considered.

Effective date. 10 USC 612 note.

(f) PROMOTION POLICY.—The amendments made by section 402 shall take effect with respect to selection boards convened under section 611(a) of title 10, United States Code, after the end of the 120-day period beginning on the date of the enactment of this Act.

10 USC 113 note.

(g) INITIAL REPORT.—The first report submitted by the Secretary of Defense after the date of the enactment of this Act under section 113(c) of title 10, United States Code (as redesignated by section 101), shall contain as much of the information required by section 667 of such title (as added by section 401) as is available to the Secretary at the time of the preparation of the report.

TITLE V—MILITARY DEPARTMENTS

PART A—DEPARTMENT OF THE ARMY

SEC. 501. THE ARMY SECRETARIAT

10 USC 3010 *et seq.*

(a) AMENDMENTS TO CHAPTER 303.—(1) Section 3015 is transferred to the end of chapter 305 and redesignated as section 3040.

10 USC 3031 *et seq.*

(2) Sections 3010, 3011, 3012, 3013, and 3014 are redesignated as sections 3011, 3012, 3013, 3014, and 3015, respectively.

(3) Section 3016 is transferred within chapter 303 to appear after section 3017 and is redesignated as section 3018.

(4) Section 3019 is transferred to chapter 305, inserted after section 3037, and redesignated as section 3038.

(5) Chapter 303 is amended by striking out sections 3013, 3014, and 3015 (as redesignated by paragraph (2)) and inserting in lieu thereof the following:

10 USC 3013.

"§ 3013. Secretary of the Army

"(a)(1) There is a Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Army.

"(2) A person may not be appointed as Secretary of the Army within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Army is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Army, including the following functions:

Ante, p. 1012.

"(1) Recruiting.
"(2) Organizing.
"(3) Supplying.
"(4) Equipping (including research and development).
"(5) Training.
"(6) Servicing.
"(7) Mobilizing.
"(8) Demobilizing.
"(9) Administering (including the morale and welfare of personnel).
"(10) Maintaining.
"(11) The construction, outfitting, and repair of military equipment.
"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Army is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Army;

"(2) the formulation of policies and programs by the Department of the Army that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Army;

"(4) carrying out the functions of the Department of the Army so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Army and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Army on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Army.

"(d) The Secretary of the Army is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Army may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Army may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Army and to the Assistant Secretaries of the Army. Officers of the Army shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

Reports.

"(g) The Secretary of the Army may—

"(1) assign, detail, and prescribe the duties of members of the Army and civilian personnel of the Department of the Army;

"(2) change the title of any officer or activity of the Department of the Army not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.

"§ 3014. Office of the Secretary of the Army

10 USC 3014.

"(a) There is in the Department of the Army an Office of the Secretary of the Army. The function of the Office is to assist the Secretary of the Army in carrying out his responsibilities.

"(b) The Office of the Secretary of the Army is composed of the following:

"(1) The Under Secretary of the Army.

"(2) The Assistant Secretaries of the Army.

"(3) The Administrative Assistant to the Secretary of the Army.

"(4) The General Counsel of the Department of the Army.

"(5) The Inspector General of the Army.

"(6) The Army Reserve Forces Policy Committee.

"(7) Such other offices and officials as may be established by law or as the Secretary of the Army may establish or designate.

"(c)(1) The Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.
"(E) Inspector General.
"(F) Legislative affairs.
"(G) Public affairs.

"(2) The Secretary of the Army shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Army Staff to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

100 STAT. 1037

"(4) The vesting in the Office of the Secretary of the Army of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Army (including the Army Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Army.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Army shall have sole responsibility within the Office of the Secretary and the Army Staff for the function of research and development.

"(2) The Secretary of the Army may assign to the Army Staff responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Army to conduct the function specified in paragraph (1).

"(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Army and to the Army Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Army shall ensure that the Office of the Secretary of the Army and the Army Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Army assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed 3,105.

"(2) Not more than 1,865 officers of the Army on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff.

"(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Army and on the Army Staff may not exceed the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Army or on the Army Staff.

Effective date.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

"§ 3015. Under Secretary of the Army

10 USC 3015.

"(a) There is an Under Secretary of the Army, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

"§ 3016. Assistant Secretaries of the Army

10 USC 3016.

"(a) There are five Assistant Secretaries of the Army. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Army may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Army.

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Civil Works. He shall have as his principal duty the overall supervision of the functions of the Department of the Army relating to programs for conservation and development of the national water resources, including flood control, navigation, shore protection, and related purposes.".

(6) Section 3017 is amended—

(A) by striking out "(a)" at the beginning of the text of such section;

(B) by striking out clause (2) and inserting in lieu thereof the following:

"(2) The Assistant Secretaries of the Army, in the order prescribed by the Secretary of the Army and approved by the Secretary of Defense."; and

(C) by striking out subsection (b).

(7) Chapter 303 is further amended by adding at the end the following new sections:

Ante, p. 1034.

"§ 3019. General Counsel

"(a) There is a General Counsel of the Department of the Army, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Army may prescribe.

"§ 3020. Inspector General

"(a) There is an Inspector General of the Army who shall be detailed to such position by the Secretary of the Army from the general officers of the Army. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

"(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

"(1) inquire into and report upon the discipline, efficiency, and economy of the Army; and

"(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

"(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Army and shall recommend additional inspections and investigations as may appear appropriate.

"(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Army.

100 STAT. 1039 "(e) The Inspector General shall have such deputies and assistants as the Secretary of the Army may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Army for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.".

(8) Section 3033 is transferred to the end of chapter 303 (as amended by paragraph (7)), redesignated as section 3021, and amended—

(A) in subsection (a)—

(i) by striking out "office" and inserting in lieu thereof "Office";

(ii) by striking out "Committee which" and inserting in lieu thereof "Committee. The Committee";

(iii) by inserting "and the mobilization preparedness" after "reserve components";

(iv) by striking out "Army, and the" and inserting in lieu thereof "Army. The"; and

(v) by striking out "Chief of Staff and the Assistant Secretary responsible for reserve affairs" and inserting in lieu thereof "Secretary of the Army and the Chief of Staff";

(B) in subsection (h), by striking out "General" each place it appears; and

(C) by striking out the section heading and inserting in lieu thereof the following:

"§ 3021. Army Reserve Forces Policy Committee".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 is amended to read as follows:

"Sec.
"3011. Organization.
"3012. Department of the Army: seal.
"3013. Secretary of the Army.
"3014. Office of the Secretary of the Army.
"3015. Under Secretary of the Army.
"3016. Assistant Secretaries of the Army.
"3017. Secretary of the Army: successors to duties.
"3018. Administrative Assistant.
"3019. General Counsel.
"3020. Inspector General.
"3021. Army Reserve Forces Policy Committee.".

SEC. 502. THE ARMY STAFF

(a) COMPOSITION OF THE ARMY STAFF.—Section 3031 is amended to read as follows:

"§ 3031. The Army Staff: function; composition

"(a) There is in the executive part of the Department of the Army an Army Staff. The function of the Army Staff is to assist the Secretary of the Army in carrying out his responsibilities.

"(b) The Army Staff is composed of the following:

"(1) The Chief of Staff.

"(2) The Vice Chief of Staff.

"(3) The Deputy Chiefs of Staff.

"(4) The Assistant Chiefs of Staff.

"(5) The Chief of Engineers.

"(6) The Surgeon General of the Army.

"(7) The Judge Advocate General of the Army.

"(8) The Chief of Chaplains of the Army.

"(9) The Chief of Army Reserve.

100 STAT. 1040 "(10) Other members of the Army assigned or detailed to the Army Staff.

"(11) Civilian employees of the Department of the Army assigned or detailed to the Army Staff.

"(c) Except as otherwise specifically prescribed by law, the Army Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.".

(b) GENERAL DUTIES.—(1) Subsection (a) of section 3032 is amended by inserting "and to the Chief of Staff of the Army" before the period.

(2) Subsection (b) of such section is amended—

(A) by striking out "direction and control of the Secretary" in the matter preceding clause (1) and inserting in lieu thereof "authority, direction, and control of the Secretary of the Army";

(B) by inserting "subject to subsections (c) and (d) of section 3014 of this title," before "prepare" in clause (1);

(C) by striking out ", training, serving, mobilizing, and demobilizing" in clause (1) and inserting in lieu thereof "(including those aspects of research and development assigned by the Secretary of the Army), training, servicing, mobilizing, demobilizing, administering, and maintaining";

(D) by striking out "for military operations" in clause (2) and inserting in lieu thereof "to support military operations by combatant commands"; and

(E) by striking out clause (4) and inserting in lieu thereof the following:

"(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Army; and".

(3) The heading of such section is amended to read as follows:

"§ 3032. The Army Staff: general duties". 10 USC 3032.

(c) CHIEF OF STAFF.—Section 3034 is redesignated as section 3033 and is amended to read as follows:

"§ 3033. Chief of Staff

"(a)(1) There is a Chief of Staff of the Army, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Army. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Chief of Staff only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest. President of U.S.

"(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

"(c) Except as otherwise prescribed by law and subject to section 3013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Army and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Army, the Chief of Staff shall—

"(1) preside over the Army Staff;

"(2) transmit the plans and recommendations of the Army Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Army Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Army as the Secretary determines; *Ante*, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Army.

"(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Army.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Army fully informed of significant military operations affecting the duties and responsibilities of the Secretary.".

(d) VICE CHIEF OF STAFF.—Section 3035 is redesignated as section 3034 and is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) There is a Vice Chief of Staff of the Army, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Army.

"(b) The Vice Chief of Staff of the Army, while so serving, has the grade of general without vacating his permanent grade.";

(2) by adding at the end the following new subsection:

"(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

"(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Army in the Army Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first."; and

(3) by striking out the section heading and inserting in lieu thereof the following:

100 STAT. 1042

"§ 3034. Vice Chief of Staff".

Ante, p. 1034.

(e) DEPUTY CHIEFS OF STAFF.—Chapter 305 is further amended by inserting after section 3034 (as redesignated by subsection (d) of this section) the following new section:

10 USC 3035.

"§ 3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

"(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

"(2) there may not be more than three Assistant Chiefs of Staff.".

(f) REPEAL OF SECTION FOR PROVOST MARSHAL GENERAL.—(1) Section 3039 is repealed.

Ante, p. 1034.

(2) Section 3040 (relating to Deputy and Assistant Chiefs of Branches) is redesignated as section 3039 and is amended by striking out "sections 3036 and 3039" in subsection (a) and inserting in lieu thereof "section 3036".

(3) Section 3081(a) is amended by striking out "section 3040" and inserting in lieu thereof "section 3039".

(g) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Section 3038 (as redesignated by section 501(a)(4) of this Act) is amended by striking out "services" in subsection (c) and inserting in lieu thereof "service".

(2) The table of sections at the beginning of chapter 305 is amended to read as follows:

"Sec.
"3031. The Army Staff: function; composition.
"3032. The Army Staff: general duties.
"3033. Chief of Staff.
"3034. Vice Chief of Staff.
"3035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
"3036. Chiefs of branches: appointment; duties.
"3037. Judge Advocate General, Assistant Judge Advocate General, and general officers of Judge Advocate General's Corps: appointment; duties.
"3038. Office of Army Reserve: appointment of Chief.
"3039. Deputy and assistant chiefs of branches.
"3040. Chief of National Guard Bureau: appointment; acting chief.".

SEC. 503. AUTHORITY TO ORGANIZE ARMY INTO COMMANDS, FORCES, AND ORGANIZATIONS

Section 3074(a) is amended by inserting "or by the Secretary of Defense" after "by law".

PART B—DEPARTMENT OF THE NAVY

SEC. 511. THE NAVY SECRETARIAT

(a) REPEAL OF SUPERSEDED CHAPTER.—Chapter 507 is repealed. 10 USC 5061 *et seq.*

(b) TRANSFER OF SECTIONS PROVIDING FOR COMPOSITION OF THE DEPARTMENT OF THE NAVY.—(1) Part I of subtitle C is amended by inserting after chapter 505 the following new chapter 507: 10 USC 5001 *et seq.*; *post*, pp 1048, 1051.

"CHAPTER 507—COMPOSITION OF THE DEPARTMENT OF THE NAVY

"Sec.
"5061. Department of the Navy: composition.
"5062. United States Navy: composition; functions.
"5063. United States Marine Corps: composition; functions.

"§ 5061. Department of the Navy: composition

10 USC 5061.

"The Department of the Navy is composed of the following:

"(1) The Office of the Secretary of the Navy.

"(2) The Office of the Chief of Naval Operations.

"(3) The Headquarters, Marine Corps.

"(4) The entire operating forces, including naval aviation, of the Navy and of the Marine Corps, and the reserve components of those operating forces.

"(5) All field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Secretary of the Navy.

"(6) The Coast Guard when it is operating as a service in the Navy.".

(2) Section 5011 is amended by striking out the third and fourth sentences.

(3) Sections 5012 and 5013 are transferred to the end of chapter 507 (as added by paragraph (1)) and redesignated as sections 5062 and 5063, respectively.

(4) Section 5062 (as so transferred and redesignated) is amended—

(A) by striking out "assigned and is" in subsection (a) and all that follows in that subsection and inserting in lieu thereof "assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war."; and

(B) by striking out subsection (d).

(c) REVISION OF NAVY SECRETARIAT SECTIONS.—Chapter 503 (as amended by subsection (b)) is further amended as follows:

(1) The heading of section 5011 is amended to read as follows:

"§ 5011. Organization".

(2) Such chapter is amended by adding after section 5011 the following new sections:

"§ 5012. Department of the Navy: seal

"The Secretary of the Navy shall have a seal for the Department of the Navy. The design of the seal must be approved by the President. Judicial notice shall be taken of the seal.

"§ 5013. Secretary of the Navy

"(a)(1) There is a Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Navy.

"(2) A person may not be appointed as Secretary of the Navy within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

Ante, p. 1012.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Navy is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Navy, including the following functions:

"(1) Recruiting.

"(2) Organizing.

"(3) Supplying.

"(4) Equipping (including research and development).

"(5) Training.

"(6) Servicing.

"(7) Mobilizing.

"(8) Demobilizing.

"(9) Administering (including the morale and welfare of personnel).

"(10) Maintaining.

"(11) The construction, outfitting, and repair of military equipment.

"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Navy is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Navy;

"(2) the formulation of policies and programs by the Department of the Navy that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Navy;

"(4) carrying out the functions of the Department of the Navy so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Navy and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Navy on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Navy.

"(d) The Secretary of the Navy is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Navy may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Navy may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Navy and to the Assistant Secretaries of the Navy. Officers of the Navy and the Marine Corps shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Navy may—

"(1) assign, detail, and prescribe the duties of members of the Navy and Marine Corps and civilian personnel of the Department of the Navy;

"(2) change the title of any officer or activity of the Department of the Navy not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.".

(3) Section 5032 is transferred to the end of such chapter and redesignated as section 5013a.

(4) Such chapter is further amended by adding after section 5013a (as transferred and redesignated by paragraph (3)) the following new sections:

"§ 5014. Office of the Secretary of the Navy

10 USC 5014.

"(a) There is in the Department of the Navy an Office of the Secretary of the Navy. The function of the Office is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Office of the Secretary of the Navy is composed of the following:

"(1) The Under Secretary of the Navy.

"(2) The Assistant Secretaries of the Navy.

"(3) The General Counsel of the Department of the Navy.

"(4) The Judge Advocate General of the Navy.

"(5) The Naval Inspector General.

"(6) The Chief of Naval Research.

"(7) Such other offices and officials as may be established by law or as the Secretary of the Navy may establish or designate.

"(c)(1) The Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.

"(E) Inspector General.

"(F) Legislative affairs.

"(G) Public affairs.

"(2) The Secretary of the Navy shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Office of the Chief of Naval Operations or the Headquarters, Marine Corps, to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall—

"(A) prescribe the relationship of each office or other entity established or designated under paragraph (2)—

"(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

"(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

"(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Navy of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Navy (including the Office of the Chief of Naval Operations and the Headquarters, Marine Corps) from providing advice or assistance to the Chief of Naval Operations and the Commandant of the Marine Corps or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Navy.

100 STAT. 1046

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Navy shall have sole responsibility within the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, for the function of research and development.

"(2) The Secretary of the Navy may assign to the Office of the Chief of Naval Operations and the Headquarters, Marine Corps, responsibility for those aspects of the function of research and development relating to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Navy to conduct the function specified in paragraph (1).

"(4) The Secretary shall—

"(A) prescribe the relationship of the office or other entity established or designated under paragraph (3)—

"(i) to the Chief of Naval Operations and the Office of the Chief of Naval Operations; and

"(ii) to the Commandant of the Marine Corps and the Headquarters, Marine Corps; and

"(B) ensure that each such office or entity provides the Chief of Naval Operations and the Commandant of the Marine Corps such staff support as each considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Navy shall ensure that the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, do not duplicate specific functions for which the Secretary has assigned responsibility to another of such offices.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Navy assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed 2,866.

"(2) Not more than 1,720 officers of the Navy and Marine Corps on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

"(3) The total number of general and flag officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps, may not exceed the number equal to 85 percent of the number of general and flag officers assigned or detailed to such duty on the date of the enactment of this subsection.

President of U.S.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, or the Headquarters, Marine Corps.

"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

Effective date.

100 STAT. 1047

"§ 5015. Under Secretary of the Navy

10 USC 5015.

"(a) There is an Under Secretary of the Navy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

"§ 5016. Assistant Secretaries of the Navy

"(a) There are four Assistant Secretaries of the Navy. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Navy.

"§ 5017. Secretary of the Navy: successors to duties

"If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases:

"(1) The Under Secretary of the Navy.

"(2) The Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy and approved by the Secretary of Defense.

"(3) The Chief of Naval Operations.

"(4) The Commandant of the Marine Corps.

"§ 5018. Administrative Assistant

"The Secretary of the Navy may appoint an Administrative Assistant in the Office of the Secretary of the Navy. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

"§ 5019. General Counsel

"(a) There is a General Counsel of the Department of the Navy, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Navy may prescribe.".

(5) Section 5088 is transferred to the end of such chapter (as amended by paragraph (4)), redesignated as section 5020, and amended—

(A) by striking out "Office of the Chief of Naval Operations" in subsection (a) and inserting in lieu thereof "Office of the Secretary of the Navy";

(B) by redesignating subsection (c) as subsection (d) and striking out "the Chief of Naval Operations" in such subsection and inserting in lieu thereof "the Secretary of the Navy"; and

100 STAT. 1048

(C) by inserting after subsection (b) the following new subsection (c):

"(c) The Naval Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Navy.".

10 USC 5131 *et seq.*

Post, p. 1055.

(d) Transfers From Chapter 513.—Sections 5150, 5151, 5152, and 5153 are transferred to the end of chapter 503 (as amended by subsection (c)) and redesignated as sections 5021, 5022, 5023, and 5024, respectively.

10 USC 5031 *et seq.*

(e) Repeal of Superseded Chapter.—Chapter 505 is repealed.

(f) Clerical Amendment.—The table of sections at the beginning of chapter 503 is amended to read as follows:

"Sec.
"5011. Organization.
"5012. Department of the Navy: seal.
"5013. Secretary of the Navy.
"5013a. Secretary of the Navy: powers with respect to Coast Guard.
"5014. Office of the Secretary of the Navy.
"5015. Under Secretary of the Navy.
"5016. Assistant Secretaries of the Navy.
"5017. Secretary of the Navy: successors to duties.
"5018. Administrative Assistant.
"5019. General Counsel.
"5020. Naval Inspector General: detail; duties.
"5021. Office of Naval Research: Chief; appointment, term, emoluments; Assistant Chief; succession to duties.
"5022. Office of Naval Research: duties.
"5023. Office of Naval Research: appropriations; time limit.
"5024. Naval Research Advisory Committee.".

SEC. 512. OFFICE OF THE CHIEF OF NAVAL OPERATIONS

10 USC 5081 *et seq.*

Ante, p. 1042; *post*, p. 1051.

(a) Repeal of Former Chapter on Office of CNO.—Chapter 509 is repealed.

(b) New Chapter on Office of CNO.—Part I of subtitle C is amended by inserting after chapter 503 the following new chapter 505:

"CHAPTER 505—OFFICE OF THE CHIEF OF NAVAL OPERATIONS

"Sec.
"5031. Office of the Chief of Naval Operations: function; composition.
"5032. Office of the Chief of Naval Operations: general duties.
"5033. Chief of Naval Operations.
"5034. Chief of Naval Operations: retirement.
"5035. Vice Chief of Naval Operations.
"5036. Deputy Chiefs of Naval Operations.
"5037. Assistant Chiefs of Naval Operations.

10 USC 5031.

"§ 5031. Office of the Chief of Naval Operations: function; composition

"(a) There is in the executive part of the Department of the Navy an Office of the Chief of Naval Operations. The function of the Office of the Chief of Naval Operations is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Office of the Chief of Naval Operations is composed of the following:

"(1) The Chief of Naval Operations.

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"(2) The Vice Chief of Naval Operations.

"(3) The Deputy Chiefs of Naval Operations.

"(4) The Assistant Chiefs of Naval Operations.

"(5) The Surgeon General of the Navy.

"(6) The Chief of Naval Personnel.

"(7) The Chief of Chaplains of the Navy.

"(8) Other members of the Navy and Marine Corps assigned or detailed to the Office of the Chief of Naval Operations.

"(9) Civilian employees in the Department of the Navy assigned or detailed to the Office of the Chief of Naval Operations.

"(c) Except as otherwise specifically prescribed by law, the Office of the Chief of Naval Operations shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

"§ 5032. Office of the Chief of Naval Operations: general duties 10 USC 5032.

"(a) The Office of the Chief of Naval Operations shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Chief of Naval Operations.

"(b) Under the authority, direction, and control of the Secretary of the Navy, the Office of the Chief of Naval Operations shall—

"(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Navy, and for such recruiting, organizing, supplying, equipping (including those aspects of research and development assigned by the Secretary of the Navy), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Navy, as will assist in the execution of any power, duty, or function of the Secretary or the Chief of Naval Operations;

"(2) investigate and report upon the efficiency of the Navy and its preparation to support military operations by combatant commands;

"(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

"(4) as directed by the Secretary or the Chief of Naval Operations, coordinate the action of organizations of the Navy; and

"(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

"§ 5033. Chief of Naval Operations

"(a)(1) There is a Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate. The Chief of Naval Operations shall be appointed for a term of four years, from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as the Chief of Naval Operations only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a flag officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest. President of U.S.

"(b) The Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade. In the performance of his duties within the Department of the Navy, the Chief of Naval Operations takes precedence above all other officers of the naval service.

"(c) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Chief of Naval Operations performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Navy, the Chief of Naval Operations shall—

"(1) preside over the Office of the Chief of Naval Operations;

"(2) transmit the plans and recommendations of the Office of the Chief of Naval Operations to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Office of the Chief of Naval Operations by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Navy and the Marine Corps as the Secretary determines; *Ante*, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and 10 USC 171.

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

"(e)(1) The Chief of Naval Operations shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title. *Ante*, p. 1005.

"(2) To the extent that such action does not impair the independence of the Chief of Naval Operations in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Naval Operations shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Naval Operations shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

"§ 5034. Chief of Naval Operations: retirement

"An officer who is retired while serving as Chief of Naval Operations, or who, after serving at least two and one-half years as Chief of Naval Operations, is retired after completion of that service while serving in a lower grade than admiral, may, in the discretion of the President, be retired with the grade of admiral.

"§ 5035. Vice Chief of Naval Operations

"(a) There is a Vice Chief of Naval Operations, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.

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"(b) The Vice Chief of Naval Operations, while so serving, has the grade of admiral without vacating his permanent grade.

"(c) The Vice Chief of Naval Operations has such authority and duties with respect to the Department of the Navy as the Chief of Naval Operations, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Vice Chief of Naval Operations in performing such duties have the same effect as those issued by the Chief of Naval Operations.

"(d) When there is a vacancy in the office of Chief of Naval Operations or during the absence or disability of the Chief of Naval Operations—

"(1) the Vice Chief of Naval Operations shall perform the duties of the Chief of Naval Operations until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Naval Operations or the Vice Chief of Naval Operations is absent or disabled, unless the President directs otherwise, the most senior officer of the Navy in the Office of the Chief of Naval Operations who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Naval Operations until a successor to the Chief of Naval Operations or the Vice Chief of Naval Operations is appointed or until the absence or disability of the Chief of Naval Operations or Vice Chief of Naval Operations ceases, whichever occurs first.

"§ 5036. Deputy Chiefs of Naval Operations

"(a) There are in the Office of the Chief of Naval Operations not more than five Deputy Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy serving in grades above captain.

"(b) The Deputy Chiefs of Naval Operations are charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. Orders issued by the Deputy Chiefs of Naval Operations in performing the duties assigned them are considered as coming from the Chief of Naval Operations.

"§ 5037. Assistant Chiefs of Naval Operations

"(a) There are in the Office of the Chief of Naval Operations not more than three Assistant Chiefs of Naval Operations, detailed by the Secretary of the Navy from officers on the active-duty list in the line of the Navy and officers on the active-duty list of the Marine Corps.

"(b) The Assistant Chiefs of Naval Operations shall perform such duties as the Secretary of the Navy prescribes.".

SEC. 513. HEADQUARTERS, MARINE CORPS

(a) REPEAL OF FORMER CHAPTER ON HEADQUARTERS, MARINE CORPS.—Chapter 515 is repealed.

10 USC 5201 *et seq.*

(b) NEW CHAPTER.—Part I of subtitle C is amended by inserting after chapter 505 (as added by section 512 of this Act) the following new chapter:

Ante, p. 1042.

"CHAPTER 506—HEADQUARTERS, MARINE CORPS

"Sec.
"5041. Headquarters, Marine Corps: function; composition.
"5042. Headquarters, Marine Corps: general duties.
"5043. Commandant of the Marine Corps.
"5044. Assistant Commandant of the Marine Corps.
"5045. Chief of Staff; Deputy and Assistant Chiefs of Staff.

"§ 5041. Headquarters, Marine Corps: function; composition

10 USC 5041

"(a) There is in the executive part of the Department of the Navy a Headquarters, Marine Corps. The function of the Headquarters, Marine Corps, is to assist the Secretary of the Navy in carrying out his responsibilities.

"(b) The Headquarters, Marine Corps, is composed of the following:

"(1) The Commandant of the Marine Corps.
"(2) The Assistant Commandant of the Marine Corps.
"(3) The Chief of Staff of the Marine Corps.
"(4) The Deputy Chiefs of Staff.
"(5) The Assistant Chiefs of Staff.
"(6) Other members of the Navy and Marine Corps assigned or detailed to the Headquarters, Marine Corps.
"(7) Civilian employees in the Department of the Navy assigned or detailed to the Headquarters, Marine Corps.

"(c) Except as otherwise specifically prescribed by law, the Headquarters, Marine Corps, shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.

"§ 5042. Headquarters, Marine Corps: general duties

"(a) The Headquarters, Marine Corps, shall furnish professional assistance to the Secretary, the Under Secretary, and the Assistant Secretaries of the Navy and to the Commandant of the Marine Corps.

"(b) Under the authority, direction, and control of the Secretary of the Navy, the Headquarters, Marine Corps, shall—

"(1) subject to subsections (c) and (d) of section 5014 of this title, prepare for such employment of the Marine Corps, and for such recruiting, organizing, supplying, equipping (including research and development), training, servicing, mobilizing, demobilizing, administering, and maintaining of the Marine Corps, as will assist in the execution of any power, duty, or function of the Secretary or the Commandant;

"(2) investigate and report upon the efficiency of the Marine Corps and its preparation to support military operations by combatant commanders;

"(3) prepare detailed instructions for the execution of approved plans and supervise the execution of those plans and instructions;

"(4) as directed by the Secretary or the Commandant, coordinate the action of organizations of the Marine Corps; and

"(5) perform such other duties, not otherwise assigned by law, as may be prescribed by the Secretary.

"§ 5043. Commandant of the Marine Corps

"(a)(1) There is a Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate. The Commandant shall be appointed for a term of four years from officers on the active-duty list of the Marine Corps not below the grade of colonel. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Commandant of the Marine Corps only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

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"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

"(b) The Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

"(c) An officer who is retired while serving as Commandant of the Marine Corps, or who, after serving at least two and one-half years as Commandant, is retired after completion of that service while serving in a lower grade than general, may, in the discretion of the President, be retired with the grade of general.

"(d) Except as otherwise prescribed by law and subject to section 5013(f) of this title, the Commandant performs his duties under the authority, direction, and control of the Secretary of the Navy and is directly responsible to the Secretary.

"(e) Subject to the authority, direction, and control of the Secretary of the Navy, the Commandant shall—

"(1) preside over the Headquarters, Marine Corps;

"(2) transmit the plans and recommendations of the Headquarters, Marine Corps, to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Headquarters, Marine Corps, by the Secretary, act as the agent of the Secretary in carrying them into effect;

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Marine Corps and the Navy as the Secretary determines;

Ante, p. 1012.

"(5) perform the duties prescribed for him by section 171 of this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Navy.

"(f)(1) The Commandant shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

Ante, p. 1005.

"(2) To the extent that such action does not impair the independence of the Commandant in the performance of his duties as a member of the Joint Chiefs of Staff, the Commandant shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Navy.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Commandant shall keep the Secretary of the Navy fully informed of significant military operations affecting the duties and responsibilities of the Secretary.

"§ 5044. Assistant Commandant of the Marine Corps

10 USC 5044.

"(a) There is an Assistant Commandant of the Marine Corps, appointed by the President, by and with the advice and consent of the Senate, from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.

"(b) The Assistant Commandant of the Marine Corps, while so serving, has the grade of general without vacating his permanent grade.

"(c) The Assistant Commandant has such authority and duties with respect to the Marine Corps as the Commandant, with the approval of the Secretary of the Navy, may delegate to or prescribe for him. Orders issued by the Assistant Commandant in performing such duties have the same effect as those issued by the Commandant.

"(d) When there is a vacancy in the office of Commandant of the Marine Corps, or during the absence or disability of the Commandant—

"(1) the Assistant Commandant of the Marine Corps shall perform the duties of the Commandant until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Assistant Commandant of the Marine Corps or the Assistant Commandant is absent or disabled, unless the President directs otherwise, the most senior officer of the Marine Corps in the Headquarters, Marine Corps, who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Commandant until a successor to the Commandant or the Assistant Commandant is appointed or until the absence or disability of the Commandant or Assistant Commandant ceases, whichever occurs first.

"§ 5045. Chief of Staff; Deputy and Assistant Chiefs of Staff

"There are in the Headquarters, Marine Corps, a Chief of Staff, not more than five Deputy Chiefs of Staff, and not more than three Assistant Chiefs of Staff, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.".

SEC. 514. TECHNICAL AND CLERICAL AMENDMENTS

(a) CONFORMING AMENDMENTS TO CHAPTER 513.—(1) The heading of chapter 513 is amended to read as follows:

"CHAPTER 513—BUREAUS; OFFICE OF THE JUDGE ADVOCATE GENERAL".

(2) Section 5155 is redesignated as section 5150.

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking out the items relating to sections 5150, 5151, 5152, and 5153; and

(B) by redesignating the item relating to section 5155 to conform to the redesignation made by paragraph (2).

(b) TECHNICAL AMENDMENTS TO CHAPTER 661.—Chapter 661 is amended—

10 USC 7861 *et seq.*

(1) by redesignating sections 7861 and 7862 as sections 7862 and 7863, respectively; and

100 STAT. 1055

(2) by striking out the table of sections at the beginning of such chapter and inserting in lieu thereof the following:

"Sec.
"7861. Custody of departmental records and property.
"7862. Accounts of paymasters of lost or captured naval vessels.
"7863. Disbursements by order of commanding officer.

10 USC 7861.

"§ 7861. Custody of departmental records and property

"The Secretary of the Navy has custody and charge of all books, records, papers, furniture, fixtures, and other property under the lawful control of the executive part of the Department of the Navy.".

Ante, p. 996.

(c) CROSS-REFERENCE AMENDMENTS.—(1) Section 125(b) is amended by striking out "5012, 5013" and inserting in lieu thereof "5062, 5063".

(2) Section 5023 (as redesignated by section 511(d) of this Act) is amended by striking out "section 5151" in subsection (a) and inserting in lieu thereof "section 5022".

(3) Sections 5589(a) and 6027 are amended by striking out "section 5155(b)" and inserting in lieu thereof "section 5150(b)".

(d) CLERICAL AMENDMENTS.—(1) The tables of chapters at the beginning of subtitle C, and at the beginning of part I of such subtitle, are each amended by striking out the items relating to chapters 505, 507, 509, 513, and 515 and inserting in lieu thereof the following:

"505. Office of the Chief of Naval Operations	**5031**
"506. Headquarters, Marine Corps	**5041**
"507. Composition of the Department of the Navy	**5061**
"513. Bureaus; Office of the Judge Advocate General	**5131".**

(2) Subsection (c) of section 5024 (as redesignated by section 511(d) of this Act) is amended by striking out "claim proceeding" and inserting in lieu thereof "claim, proceeding,".

PART C—DEPARTMENT OF THE AIR FORCE

SEC. 521. THE AIR FORCE SECRETARIAT

10 USC 8010 *et seq.*

(a) AMENDMENTS TO CHAPTER 803.—(1) Sections 8010, 8011, 8012, 8013, and 8014 are redesignated as sections 8011, 8012, 8013, 8014, and 8015, respectively.

10 USC 8031 *et seq.*; *post*, p. 1062.

(2) Section 8019 is transferred to the end of chapter 805 and is redesignated as section 8038.

(3) Chapter 803 is amended by striking out sections 8013, 8014, and 8015 (as redesignated by paragraph (1)) and inserting in lieu thereof the following

"§ 8013. Secretary of the Air Force

"(a)(1) There is a Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department of the Air Force.

"(2) A person may not be appointed as Secretary of the Air Force within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

Ante, p. 1012.

"(b) Subject to the authority, direction, and control of the Secretary of Defense and subject to the provisions of chapter 6 of this title, the Secretary of the Air Force is responsible for, and has the authority necessary to conduct, all affairs of the Department of the Air Force, including the following functions:

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"(1) Recruiting.
"(2) Organizing.
"(3) Supplying.
"(4) Equipping (including research and development).
"(5) Training.
"(6) Servicing.

"(7) Mobilizing.

"(8) Demobilizing.

"(9) Administering (including the morale and welfare of personnel).

"(10) Maintaining.

"(11) The construction, outfitting, and repair of military equipment.

"(12) The construction, maintenance, and repair of buildings, structures, and utilities and the acquisition of real property and interests in real property necessary to carry out the responsibilities specified in this section.

"(c) Subject to the authority, direction, and control of the Secretary of Defense, the Secretary of the Air Force is also responsible to the Secretary of Defense for—

"(1) the functioning and efficiency of the Department of the Air Force;

"(2) the formulation of policies and programs by the Department of the Air Force that are fully consistent with national security objectives and policies established by the President or the Secretary of Defense;

"(3) the effective and timely implementation of policy, program, and budget decisions and instructions of the President or the Secretary of Defense relating to the functions of the Department of the Air Force;

"(4) carrying out the functions of the Department of the Air Force so as to fulfill (to the maximum extent practicable) the current and future operational requirements of the unified and specified combatant commands;

"(5) effective cooperation and coordination between the Department of the Air Force and the other military departments and agencies of the Department of Defense to provide for more effective, efficient, and economical administration and to eliminate duplication;

"(6) the presentation and justification of the positions of the Department of the Air Force on the plans, programs, and policies of the Department of Defense; and

"(7) the effective supervision and control of the intelligence activities of the Department of the Air Force.

"(d) The Secretary of the Air Force is also responsible for such other activities as may be prescribed by law or by the President or Secretary of Defense.

"(e) After first informing the Secretary of Defense, the Secretary of the Air Force may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

"(f) The Secretary of the Air Force may assign such of his functions, powers, and duties as he considers appropriate to the Under Secretary of the Air Force and to the Assistant Secretaries of the Air Force. Officers of the Air Force shall, as directed by the Secretary, report on any matter to the Secretary, the Under Secretary, or any Assistant Secretary.

"(g) The Secretary of the Air Force may— 100 STAT. 1057

"(1) assign, detail, and prescribe the duties of members of the Air Force and civilian personnel of the Department of the Air Force;

"(2) change the title of any officer or activity of the Department of the Air Force not prescribed by law; and

"(3) prescribe regulations to carry out his functions, powers, and duties under this title.

"§ 8014. Office of the Secretary of the Air Force

10 USC 8014.

"(a) There is in the Department of the Air Force an Office of the Secretary of the Air Force. The function of the Office is to assist the Secretary of the Air Force in carrying out his responsibilities.

"(b) The Office of the Secretary of the Air Force is composed of the following:

"(1) The Under Secretary of the Air Force.

"(2) The Assistant Secretaries of the Air Force.

"(3) The General Counsel of the Department of the Air Force.

"(4) The Inspector General of the Air Force.

"(5) The Air Reserve Forces Policy Committee.

"(6) Such other offices and officials as may be established by law or as the Secretary of the Air Force may establish or designate.

"(c)(1) The Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the following functions:

"(A) Acquisition.

"(B) Auditing.

"(C) Comptroller (including financial management).

"(D) Information management.

"(E) Inspector General.

"(F) Legislative affairs.

"(G) Public affairs.

"(2) The Secretary of the Air Force shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct each function specified in paragraph (1). No office or other entity may be established or designated within the Air Staff to conduct any of the functions specified in paragraph (1).

"(3) The Secretary shall prescribe the relationship of each office or other entity established or designated under paragraph (2) to the Chief of Staff and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(4) The vesting in the Office of the Secretary of the Air Force of the responsibility for the conduct of a function specified in paragraph (1) does not preclude other elements of the executive part of the Department of the Air Force (including the Air Staff) from providing advice or assistance to the Chief of Staff or otherwise participating in that function within the executive part of the Department under the direction of the office assigned responsibility for that function in the Office of the Secretary of the Air Force.

"(d)(1) Subject to paragraph (2), the Office of the Secretary of the Air Force shall have sole responsibility within the Office of the Secretary and the Air Staff for the function of research and development.

100 STAT. 1058 "(2) The Secretary of the Air Force may assign to the Air Staff responsibility for those aspects of the function of research and development that relate to military requirements and test and evaluation.

"(3) The Secretary shall establish or designate a single office or other entity within the Office of the Secretary of the Air Force to conduct the function specified in paragraph (1).

"(4) The Secretary shall prescribe the relationship of the office or other entity established or designated under paragraph (3) to the Chief of Staff of the Air Force and to the Air Staff and shall ensure that each such office or entity provides the Chief of Staff such staff support as the Chief of Staff considers necessary to perform his duties and responsibilities.

"(e) The Secretary of the Air Force shall ensure that the Office of the Secretary of the Air Force and the Air Staff do not duplicate specific functions for which the Secretary has assigned responsibility to the other.

"(f)(1) The total number of members of the armed forces and civilian employees of the Department of the Air Force assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed 2,639.

"(2) Not more than 1,585 officers of the Air Force on the active-duty list may be assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff.

"(3) The total number of general officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force and on the Air Staff may not exceed the number equal to 85 percent of the number of general officers assigned or detailed to such duty on the date of the enactment of this subsection.

"(4) The limitations in paragraphs (1), (2), and (3) do not apply in time of war or during a national emergency declared by Congress. The limitation in paragraph (2) does not apply whenever the President determines that it is in the national interest to increase the number of officers assigned or detailed to permanent duty in the Office of the Secretary of the Air Force or on the Air Staff.

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"(5) The limitations in paragraphs (1), (2), and (3) do not apply before October 1, 1988.

"§ 8015. Under Secretary of the Air Force

10 USC 8015.

"(a) There is an Under Secretary of the Air Force, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

"§ 8016. Assistant Secretaries of the Air Force

"(a) There are three Assistant Secretaries of the Air Force. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe.

"(2) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Manpower and Reserve Affairs. He shall have as his principal duty the overall supervision of manpower and reserve component affairs of the Department of the Air Force.".

(4) Section 8017 is amended—

(A) by striking out "(a)" at the beginning of the text of such section;

(B) by striking out clause (2) and inserting in lieu thereof the following:

"(2) The Assistant Secretaries of the Air Force, in the order prescribed by the Secretary of the Air Force and approved by the Secretary of Defense."; and

(C) by striking out subsection (b).

(5) Chapter 803 is further amended by adding at the end the following new sections:

"§ 8018. Administrative Assistant

10 USC 8018.

"The Secretary of the Air Force may appoint an Administrative Assistant in the Office of the Secretary of the Air Force. The Administrative Assistant shall perform such duties as the Secretary may prescribe.

"§ 8019. General Counsel

"(a) There is a General Counsel of the Department of the Air Force, appointed from civilian life by the President.

"(b) The General Counsel shall perform such functions as the Secretary of the Air Force may prescribe.

"§ 8020. Inspector General

"(a) There is an Inspector General of the Air Force who shall be detailed to such position by the Secretary of the Air Force from the general officers of the Air Force. An officer may not be detailed to such position for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

"(b) When directed by the Secretary or the Chief of Staff, the Inspector General shall—

"(1) inquire into and report upon the discipline, efficiency, and economy of the Air Force; and

"(2) perform any other duties prescribed by the Secretary or the Chief of Staff.

"(c) The Inspector General shall periodically propose programs of inspections to the Secretary of the Air Force and shall recommend additional inspections and investigations as may appear appropriate.

"(d) The Inspector General shall cooperate fully with the Inspector General of the Department of Defense in connection with the performance of any duty or function by the Inspector General of the Department of Defense under the Inspector General Act of 1978 (5 U.S.C. App. 3) regarding the Department of the Air Force.

"(e) The Inspector General shall have such deputies and assistants as the Secretary of the Air Force may prescribe. Each such deputy and assistant shall be an officer detailed by the Secretary to that position from the officers of the Air Force for a tour of duty of not more than four years, under a procedure prescribed by the Secretary.".

(6) Section 8033 is transferred to the end of chapter 803 (as amended by paragraph (5)), redesignated as section 8021, and amended—

(A) in subsection (a)—

(i) by striking out "Policy which" and inserting in lieu thereof "Policy. The Committee";

(ii) by inserting "and the mobilization preparedness" after "reserve components";

(iii) by striking out "Air Force and the" and inserting in lieu thereof "Air Force. The"; and

(iv) by striking out "Chief of Staff, and the Assistant Secretary responsible for reserve affairs" and inserting in lieu thereof "Secretary of the Air Force and the Chief of Staff";

(B) in subsection (b), by inserting "and" after the semicolon in clause (2); and

(C) by striking out the section heading and inserting in lieu thereof the following:

10 USC 8021.

"§ 8021. Air Force Reserve Forces Policy Committee".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 803 is amended to read as follows:

"Sec.
"8011. Organization.
"8012. Department of the Air Force: seal.
"8013. Secretary of the Air Force.
"8014. Office of the Secretary of the Air Force.
"8015. Under Secretary of the Air Force.
"8016. Assistant Secretaries of the Air Force.
"8017. Secretary of the Air Force: successors to duties.
"8018. Administrative Assistant.
"8019. General Counsel.
"8020. Inspector General.
"8021. Air Force Reserve Forces Policy Committee.".

SEC. 522. THE AIR STAFF

(a) COMPOSITION OF THE AIR STAFF.—Section 8031 is amended to read as follows:

"§ 8031. The Air Staff: function; composition

"(a) There is in the executive part of the Department of the Air Force an Air Staff. The function of the Air Staff is to assist the Secretary of the Air Force in carrying out his responsibilities.

"(b) The Air Staff is composed of the following:

"(1) The Chief of Staff.

"(2) The Vice Chief of Staff.

"(3) The Deputy Chiefs of Staff.

"(4) The Assistant Chiefs of Staff.

"(5) The Surgeon General of the Air Force.

"(6) The Judge Advocate General of the Air Force.

"(7) The Chief of the Air Force Reserve.

"(8) Other members of the Air Force assigned or detailed to the Air Staff.

"(9) Civilian employees in the Department of the Air Force assigned or detailed to the Air Staff.

"(c) Except as otherwise specifically prescribed by law, the Air Staff shall be organized in such manner, and its members shall perform such duties and have such titles, as the Secretary may prescribe.".

(b) General Duties.—(1) Subsection (a) of section 8032 is amended by inserting "of the Air Force" after "Chief of Staff".

(2) Subsection (b) of such section is amended—

(A) by striking out "The Air Staff" in the matter preceding clause (1) and inserting in lieu thereof "Under the authority, direction, and control of the Secretary of the Air Force, the Air Staff";

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(B) by inserting "subject to subsections (c) and (d) of section 8014 of this title," before "prepare" in clause (1);

(C) by striking out ", training, serving, mobilizing, and demobilizing" in clause (1) and inserting in lieu thereof "(including those aspects of research and development assigned by the Secretary of the Air Force), training, servicing, mobilizing, demobilizing, administering, and maintaining";

(D) by striking out "for military operations" in clause (2) and inserting in lieu thereof "to support military operations by combatant commands"; and

(E) by striking out clause (4) and inserting in lieu thereof the following:

"(4) as directed by the Secretary or the Chief of Staff, coordinate the action of organizations of the Air Force; and".

(3) The heading of such section is amended [illegible] read as follows:

"§ 8032. The Air Staff: general duties".

10 USC 8032.

(c) Chief of Staff.—Section 8034 is redesignated as section 8033 and is amended to read as follows:

"§ 8033. Chief of Staff

"(a)(1) There is a Chief of Staff of the Air Force, appointed for a period of four years by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force. He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

"(2) The President may appoint an officer as Chief of Staff only if—

"(A) the officer has had significant experience in joint duty assignments; and

"(B) such experience includes at least one joint duty assignment as a general officer.

"(3) The President may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.

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"(b) The Chief of Staff, while so serving, has the grade of general without vacating his permanent grade.

"(c) Except as otherwise prescribed by law and subject to section 8013(f) of this title, the Chief of Staff performs his duties under the authority, direction, and control of the Secretary of the Air Force and is directly responsible to the Secretary.

"(d) Subject to the authority, direction, and control of the Secretary of the Air Force, the Chief of Staff shall—

"(1) preside over the Air Staff;

"(2) transmit the plans and recommendations of the Air Staff to the Secretary and advise the Secretary with regard to such plans and recommendations;

"(3) after approval of the plans or recommendations of the Air Staff by the Secretary, act as the agent of the Secretary in carrying them into effect;

Ante, p. 1012.

"(4) exercise supervision, consistent with the authority assigned to commanders of unified or specified combatant commands under chapter 6 of this title, over such of the members and organizations of the Air Force as the Secretary determines;

"(5) perform the duties prescribed for him by section 171 of

this title and other provisions of law; and

"(6) perform such other military duties, not otherwise assigned by law, as are assigned to him by the President, the Secretary of Defense, or the Secretary of the Air Force.

"(e)(1) The Chief of Staff shall also perform the duties prescribed for him as a member of the Joint Chiefs of Staff under section 151 of this title.

"(2) To the extent that such action does not impair the independence of the Chief of Staff in the performance of his duties as a member of the Joint Chiefs of Staff, the Chief of Staff shall inform the Secretary regarding military advice rendered by members of the Joint Chiefs of Staff on matters affecting the Department of the Air Force.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Chief of Staff shall keep the Secretary of the Air Force fully informed of significant military operations affecting the duties and responsibilities of the Secretary.".

(d) VICE CHIEF OF STAFF.—Section 8035 is redesignated as section 8034 and is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) There is a Vice Chief of Staff of the Air Force, appointed by the President, by and with the advice and consent of the Senate, from the general officers of the Air Force.

"(b) The Vice Chief of Staff of the Air Force, while so serving, has the grade of general without vacating his permanent grade.";

(2) by striking out subsection (c);

(3) by redesignating subsection (d) as subsection (c);

(4) by adding at the end the following new subsection:

"(d) When there is a vacancy in the office of Chief of Staff or during the absence or disability of the Chief of Staff—

"(1) the Vice Chief of Staff shall perform the duties of the Chief of Staff until a successor is appointed or the absence or disability ceases; or

"(2) if there is a vacancy in the office of the Vice Chief of Staff or the Vice Chief of Staff is absent or disabled, unless the President directs otherwise, the most senior officer of the Air Force in the Air Staff who is not absent or disabled and who is not restricted in performance of duty shall perform the duties of the Chief of Staff until a successor to the Chief of Staff or the Vice Chief of Staff is appointed or until the absence or disability of the Chief of Staff or Vice Chief of Staff ceases, whichever occurs first."; and

(5) by striking out the section heading and inserting in lieu thereof the following:

10 USC 8034.

"§ 8034. Vice Chief of Staff".

Ante, p. 1055.

(e) DEPUTY CHIEFS OF STAFF.—Chapter 805 is further amended by inserting after section 8034 (as redesignated by subsection (d) of this section) the following new section.

"§ 8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff

"(a) The Deputy Chiefs of Staff and the Assistant Chiefs of Staff shall be general officers detailed to those positions.

"(b) The number of Deputy Chiefs of Staff and Assistant Chiefs of Staff shall be prescribed by the Secretary, except that—

"(1) there may not be more than five Deputy Chiefs of Staff; and

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"(2) there may not be more than three Assistant Chiefs of Staff.".

(f) Judge Advocate General; Deputy Judge Advocate General.—Section 8072 is transferred to chapter 805, inserted after section 8036, and redesignated as section 8037.

Ante, p. 1062.

(g) Clerical Amendments.—(1) The table of sections at the beginning of chapter 805 is amended to read as follows:

"Sec.

"8031. The Air Staff: function; composition.
"8032. The Air Staff: general duties.
"8033. Chief of Staff.
"8034. Vice Chief of Staff.
"8035. Deputy Chiefs of Staff and Assistant Chiefs of Staff.
"8036. Surgeon General: appointment; grade.
"8037. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.
"8038. Office of Air Force Reserve: appointment of Chief.".

(2) The heading of section 8036 is amended by striking out the comma and inserting in lieu thereof a semicolon.

10 USC 8036.

(3) Section 8038 (as redesignated by section 521(a)(2)) is amended by striking out the comma in subsection (a) after "Chief of Staff".

(4) The table of sections at the beginning of chapter 807 is amended by striking out the item relating to section 8072.

SEC. 523. AUTHORITY TO ORGANIZE AIR FORCE INTO SEPARATE ORGANIZATIONS

Section 8074(a) is amended by striking out "The" and inserting in lieu thereof "Except as otherwise prescribed by law or by the Secretary of Defense, the".

Part D—General Conforming Amendments and Transition Provisions

SEC. 531. CONFORMING AMENDMENTS

(a) Amendments to Title 10.—(1) Sections 175(d) and 523(b)(1)(B) are amended by striking out "3033" and "8033" and inserting in lieu thereof "3021" and "8021", respectively.

(2) Section 641(1)(B) is amended by striking out "3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033," and inserting in lieu thereof "3021, 3038, 3040, 3496, 5251, 5252, 8021, 8038,".

(b) Amendments to Title 37.—Section 204((a)(2) of title 37, United States Code, is amended by striking out "3033" and "8033" and inserting in lieu thereof "3021" and "8021", respectively.

SEC. 532. TRANSITION

(a) Effective Date.—The provisions of subsections (c) and (d) of each of sections 3014, 5014, and 8014 of title 10, United States Code, as added by sections 501, 511, and 521, respectively, shall be implemented not later than 180 days after the date of the enactment of this Act.

10 USC 3014 note.

(b) Report.—Not later than 210 days after the date of the enactment of this Act, the Secretary of each military department shall submit to Congress a report on the actions that have been taken to implement the provisions referred to in subsection (a) with respect to that military department.

(c) Waiver of Qualifications for Appointment as Service Chief.—(1) The President may waive, as provided in paragraph (2), the requirements provided for in section 3033(a)(2), 5033(a)(2), 5043(a)(2), and 8033(a)(2) of title 10, United States Code (as added or amended by sections 502, 512, 513, and 522, respectively).

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10 USC 3033 note.

100 STAT. 1064

(2) In exercising such waiver authority, the President may, in the case of any officer—

(A) waive the requirement under section 664 of such title (as added by section 401 of this Act) for the length of a joint duty assignment if the officer has served in such an assignment for not less than two years; and

(B) consider as a joint duty assignment any tour of duty served by the officer as a general or flag officer before the date of the enactment of this Act (or being served on the date of the enactment of this Act) that was considered to be a joint duty assignment or a joint equivalent assignment under regulations in effect at the time the assignment began.

(3) A waiver under paragraph (2) may not be made in the case of any officer more than four years after the date of the enactment of this Act.

(4) A waiver under this subsection may be made only on a case-by-case basis.

TITLE VI—MISCELLANEOUS

10 USC 194 note.

SEC. 601. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Effective date.

(a) MILITARY DEPARTMENTS AND COMBATANT COMMANDS.—(1) Effective on October 1, 1988, the total number of members of the Armed Forces and civilian employees assigned or detailed to duty described in paragraph (2) may not exceed the number equal to 90 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(2) Duty referred to in paragraph (1) is permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities or management headquarters support activities.

(3) In computing and implementing the limitation in paragraph (1), the Secretary of Defense shall exclude members and employees who are assigned or detailed to permanent duty to perform management headquarters activities or management headquarters support activities in the following:

(A) The Office of the Secretary of the Army and the Army Staff.

(B) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

(C) The Office of the Secretary of the Air Force and the Air Staff.

(D) The immediate headquarters staff of the commander of each unified or specified combatant command.

(4) If the Secretary of Defense applies any reduction in personnel required by the limitation in paragraph (1) to a unified or specified combatant command, the commander of that command, after consulting with his directly subordinate commanders, shall determine the manner in which the reduction shall be accomplished.

(b) DEFENSE AGENCIES AND DOD FIELD ACTIVITIES.—(1)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

100 STAT. 1065

(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 10 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

(C) If the number of members and employees reduced under subparagraph (A) or (B) is in excess of the reduction required to be made by that subparagraph, such excess number may be applied to the number required to be reduced under paragraph (2).

(2)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities, by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 5 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

(3) If after the date of the enactment of this Act and before October 1, 1988, the total number of members and employees described in paragraph (1)(A) or (2)(A) is reduced by a number that is in excess of the number required to be reduced under that paragraph, the Secretary may, in meeting the additional reduction required by paragraph (1)(B) or (2)(B), as the case may be, offset such additional reduction by that excess number.

(4) The National Security Agency shall be excluded in computing and making reductions under this subsection.

(c) PROHIBITION AGAINST CERTAIN ACTIONS TO ACHIEVE REDUCTIONS.—Compliance with the limitations and reductions required by subsections (a) and (b) may not be accomplished by recategorizing or redefining duties, functions, offices, or organizations.

(d) ALLOCATIONS TO BE MADE BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall allocate the reductions required to comply with the limitations in subsections (a) and (b) in a manner consistent with the efficient operation of the Department of Defense. If the Secretary determines that national security requirements dictate that a reduction (or any portion of a reduction) required by subsection (b) not be made from the Defense Agencies and Department of Defense Field Activities, the Secretary may allocate such reduction (or any portion of such reduction) (A) to personnel assigned or detailed to permanent duty in management headquarters activities or management headquarters support activities, or (B) to personnel assigned or detailed to permanent duty in other than management headquarters activities or management headquarters support activities, as the case may be, of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

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(2) Among the actions that are taken to carry out the reductions required by subsections (a) and (b), the Secretary shall consolidate and eliminate unnecessary management headquarters activities and management headquarters support activities.

(e) TOTAL REDUCTIONS.—Reductions in personnel required to be made under this section are in addition to any reductions required to be made under other provisions of this Act or any amendment made by this Act.

(f) DEFINITIONS.—For purposes of this section, the terms "management headquarters activities" and "management headquarters support activities" have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities" and dated January 7, 1985.

SEC. 602. REDUCTION OF REPORTING REQUIREMENTS

10 USC 111 note.

(a) POLICY.—It is the policy of Congress to reduce the administrative burden placed on the Department of Defense by requirements for reports, studies, and notifications to be submitted to Congress through the elimination of outdated, redundant, or otherwise unnecessary reporting requirements.

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(b) COMPILATION OF EXISTING REPORTING REQUIREMENTS.—(1) The Secretary of Defense shall compile a list of all provisions of law in effect on the date of the enactment of this Act or enacted after such date and before February 1, 1987, that require the President, with respect to national defense functions of the Government, or any official or employee of the Department of Defense to submit a report, notification, or study to Congress or any committee of Congress. The preceding sentence does not apply to a requirement for a report, notification, or study to be submitted one time.

(2) The Secretary shall submit to Congress the list compiled under paragraph (1) not later than six months after the date of the enactment of this Act. The Secretary shall include with such list (with respect to each report, notification, or study shown on the list) the following:

(A) The date the requirement for such report, notification, or study was first imposed by law and the current legal citation for such requirement.

(B) The Secretary's assessment of the continuing utility of such requirement to Congress and to the executive branch.

(C) The Secretary's assessment of the administrative burden of such requirement and how such burden relates to the utility of the report, notification, or study.

(D) The Secretary's recommendation as to whether such requirement should be retained, modified, or repealed.

(3) The matter submitted under paragraph (2) shall also include—

(A) any recommendation of the Secretary for consolidation of different requirements for reports, notifications, and studies; and

(B) a draft of legislation to implement any changes in law recommended by the Secretary and to conform statutory provisions to the elimination of reporting requirements under subsection (c).

Effective date.

(c) TERMINATION OF REPORTING REQUIREMENTS.—Except as provided in subsection (d), effective on January 1, 1987, each provision of law that is contained in title 10, 32, or 37, United States Code, or in any Act authorizing appropriations or making appropriations for military functions of the Department of Defense (including military construction and military family housing functions) shall not be effective to the extent such provision requires the submission of a report, notification, or study.

100 STAT. 1067

(d) EXCEPTIONS.—Subsection (c) does not apply—

(1) to a requirement for a report, notification, or study to be submitted one time;

(2) to a provision of law enacted on or after the date of the enactment of this Act (including any provision enacted by this Act); or

(3) to a provision of law that requires the submission of the reports, notifications, and studies described in subsections (e) through (u).

(e) PROVISIONS OF TITLE 10.—The exception provided in subsection (d)(3) applies to the following reports, notifications, and studies required by title 10, United States Code:

(1) The annual report required by section 113(c) of such title (as redesignated by section 101(a)), relating to the accomplishments of the Department of Defense.

(2) The annual report required by section 113(e) of such title (as redesignated by section 101(a) and amended by section 603), relating to major military missions and the military force structure of the United States.

(3) The annual reports required by section 115 of such title (as designated and amended by section 110(b))—

(A) under subsection (a)(2) of such section, relating to equipment of the National Guard and reserve components;

(B) under subsection (b)(3) of such section, relating to military and civilian personnel and strength levels, certain other manpower requirements, base structures, and certain requirements for and information on officers; and

(C) under subsection (c)(2) of such section, relating to average student training loads.

(4) The annual report required by section 116(a) of such title (as designated and amended by section 110(b)), relating to operations and maintenance.

(5) The annual report required by section 117 of such title (as redesignated by section 101(a)), relating to North Atlantic Treaty Organization readiness.

(6) The reports required by section 118 of such title (as redesignated by section 101(a)), relating to sales or transfers of certain defense articles.

(7) The report required by section 125(c) of such title, relating to the proposed reduction or elimination of a major weapon system.

(8) The reports required by subsection (b)(5) of section 138 of such title (as redesignated by section 101(a)) and the annual report required by subsection (g) of such section, relating to operational test and evaluation activities.

(9) Reports required by section 1092(a)(3) of such title, relating to studies and demonstration projects relating to delivery of health and medical care.

(10) The reports required by section 1464(c) of such title, relating to the status of the Department of Defense Military Retirement Fund.

(11) The report required by section 2137 of such title, relating to the educational assistance program for members of the Selected Reserve under chapter 106 of such title.

10 USC 2131 *et seq.*

(12) The annual report required by section 2208(k) of such title, relating to the condition and operation of working-capital funds.

(13) The notifications required by section 2233a(a)(1) of such title, relating to expenditures and contributions for acquisition of facilities for reserve components.

(14) The notifications required by section 2304(c)(7) of such title, relating to the use of procurement procedures other than competitive procedures.

(15) The notifications required by section 2306(h)(3) of such title, relating to cancellation ceilings in certain multiyear contracts.

(16) The annual report required by section 2313(d)(4) of such title, relating to subpoenas issued by the Director of the Defense Contract Audit Agency to obtain contractor records.

(17) The annual report required by section 2349 of such title, relating to North Atlantic Treaty Organization acquisition and cross-servicing agreements.

(18) The semiannual report required by section 2357 of such title, relating to contracts in excess of $50,000 entered into by the military departments for research and development.

(19) The report required by section 2362(c) of such title, relating to the testing of wheeled or tracked armored vehicle programs.

(20) The reports required by section 2391(c) of such title, relating to miltiary base reuse studies and community planning assistance.

(21) The notifications required by section 2394(b)(2) of such title, relating to contracts for energy or fuel.

(22) The annual report required by section 2397(e) of such title, relating to the names of certain employees and former employees of defense contractors.

(23) The notifications required by clauses (B) and (C) of section 2401(b)(1) of such title, the cost analyses required by section 2401(e)(1) of such title, and the reports required by section

2401(e)(2) of such title, all relating to the long-term lease or charter of vessels and aircraft by the military departments.

(24) The notifications required by subsection (e)(1) of section 2403 of such title and the annual report required by subsection (e)(2) of such section, relating to waivers of certain requirements for contractor guarantees.

(25) The notifications required by paragraphs (1) and (2) of section 2407(d) of such title, relating to certain contracts awarded by the Department of Defense in connection with North Atlantic Treaty Organization cooperative agreements.

(26)(A) The annual and supplemental reports required by section 2431 of such title (as redesignated by section 101(a)), relating to weapons development and procurement schedules, including the matter required by section 53(b) of the Arms Export Control Act (22 U.S.C. 2795b(b)) to be included in such annual reports.

(B) The notifications in lieu of such supplemental reports under subsection (b) of such section.

100 STAT. 1069

(27) The Selected Acquisition Reports required by section 2432 of such title (as redesignated by section 101(a)).

(28) The notifications required by subsection (d)(3) of section 2433 of such title (as redesignated by section 101(a)) and reports required by subsection (e) of such section, relating to increases in program acquisition unit costs and procurement unit costs of certain major defense acquisition programs.

(29) The annual report required by section 2457(d) of such title, relating to the policy to standardize equipment, ammunition, and fuel procured for the use of United States military forces stationed in Europe under the North Atlantic Treaty.

(30) The reports required by subsection (a) or (e) of section 2662 of such title and the annual report required by subsection (b) of such section, relating to certain real property transactions.

(31) The notifications required by section 2667a(g)(3) of such title, relating to expenditures in excess of $300,000 from the DOD Facilities Replacement Management Account.

(32) The notifications required by section 2672(b) of such title, relating to acquisitions of interests in land for more than $100,000.

(33) The notifications required by section 2676(d) of such title, relating to reductions in scope and increases in cost of a land acquisition.

(34)(A) The notifications required by section 2687(b) of such title, relating to base closures and realignments.

(B) The certification provided for in section 2687(c) of such title, relating to a closure or realignment of a military installation for reasons of national security.

(35) The annual report required by section 2779(b)(4) of such title, relating to the use of funds appropriated for the elimination of certain losses caused by fluctuations in currency exchange rates of foreign countries.

(36) The reports required by section 2803(b) of such title, relating to emergency military construction projects carried out under section 2803 of such title.

(37) The reports required by section 2804(b) of such title, relating to military construction projects not authorized by law.

(38) The notifications required by paragraphs (2) and (3) of section 2805(b) of such title, relating to minor construction in connection with certain relocations of activities from one installation to another.

(39) The reports required by section 2806(c)(2) of such title, relating to contributions for North Atlantic Treaty Organization Infrastructure.

(40) The notifications required by subsection (b) of section 2807 of such title and the reports required by subsection (c) of such section, relating to architectural and engineering services

and construction design in connection with military construction or military family housing projects.

(41) The notifications required by section 2808(b) of such title, relating to military construction projects in the event of a declaration of war or national emergency.

(42) The justifications and economic analyses required by section 2809(a)(4) of such title, relating to long-term contracts for the construction, management, and operation of certain facilities.

(43) The notifications and justifications required by section 2823(b) of such title, relating to disagreements on the availability of suitable alternative housing at locations in the United States where family housing is proposed to be constructed.

(44) The notifications required by section 2827(b) of such title, relating to relocation of military family housing units.

(45) The notifications and reports of economic analyses required by section 2828 of such title—

(A) under subsection (b)(3) of such section, relating to domestic family housing limitations;

(B) under subsection (f) of such section, relating to the proposed lease of military family housing in excess of authorized amounts; and

(C) under subsection (g)(6)(A) of such section, relating to leasing of military family housing facilities.

(46) The notifications required by section 2834(b) of such title, relating to agreements with the Secretary of State for the use of Department of State housing and related services by Department of Defense personnel.

(47) The notifications required by subsections (d) and (e) of section 2853 of such title, relating to reductions in the scope of work or increases in the cost of military construction projects.

(48) The notifications required by section 2854(b) of such title, relating to repair, restoration, or replacement of damaged or destroyed military facilities.

(49) The notifications required by section 2856(b) of such title, relating to regulations establishing limitations on barracks space.

(50) The annual report required by section 2861(a) of such title, relating to military construction activities and military family housing activities.

(51) The notifications required by section 7307(b)(2) of such title, relating to the disposition of naval vessels to foreign nations.

(52) The quarterly report required by section 7434 of such title, relating to production from the naval petroleum reserves.

(f) Provisions of Title 37.—(1) The exception provided in subsection (d)(3) applies to the report required by section 406(i) of title 37, United States Code, relating to dependents accompanying members of the Armed Forces stationed outside the United States.

(2) Such section is amended—

(A) by striking out "quarter" in the matter preceding clause (1); and

(B) by striking out "quarter" in clauses (1) and (2) and inserting in lieu thereof "fiscal year".

(g) Public Law 91-121.—Notifications required by subsections (b)(4) and (c)(1) of section 409 of Public Law 91-121 (50 U.S.C. 1512(4), 1513(1)), relating to chemical or biological warfare agents.

(h) Public Law 91-441.—Reports required by section 203(c) of Public Law 91-441 (10 U.S.C. 2358 note), relating to independent research and development and bid and proposal programs.

(i) Public Law 93-365.—The exception provided in subsection (d)(3) applies to the statements and quarterly report required by subsections (c) and (e) of section 709 of the Department of Defense Appropriation Authorization Act, 1975 (50 U.S.C. App. 2403-1(e)), relating to the export of certain goods, technology, and industrial techniques.

50 USC app. 2403-1.

100 STAT. 1071 (j) Public Law 96-342.—The exception provided in subsection (d)(3) applies to the notifications, summaries, certifications, and reports required by subsections (a), (b), and (c) of section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note), relating to conversion of performance of commercial and other type functions from Department of Defense personnel to private contractors.

(k) Public Law 98-94.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by section 1201(c) of the Department of Defense Authorization Act, 1984 (97 Stat. 678), relating to transfers of amounts of authorizations.

(2) The reports and assessments required by section 1231 of such Act (97 Stat. 693), relating to certain intercontinental ballistic missile systems.

42 USC 248d (3) The reports required by section 1252(d) of such Act (97 Stat. 698), relating to the cost effectiveness of and the quality of medical care provided by public health service hospitals.

(l) Public Law 98-525.—The exception provided in subsection (d)(3) applies to the following:

(1) Reports required by section 105(b)(1) of the Department of Defense Authorization Act, 1985 (98 Stat. 2503), relating to government-to-government agreements for acquisition in connection with certain NATO cooperative programs.

(2) The reports required by section 307(b)(3) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2304 note), relating to waivers of a prohibition on contracting out certain logistics activities.

(3) The annual report required by section 1002(d)(1) of such Act (22 U.S.C. 1928 note), relating to the supply of munitions and certain aircraft facilities in support of the North Atlantic Treaty Organization.

(4) The annual report required by section 1002(d)(2) of such Act (22 U.S.C. 1928 note), relating to the status and cost of the United States commitment to the North Atlantic Treaty Organization and certain activities of other member nations of the North Atlantic Treaty Organization.

(5) The annual reports required by subsections (c) and (d) of section 1003 of such Act (22 U.S.C. 1928 note), relating to allied contributions to the common defense.

(6) The annual report required by section 1102 of such Act (10 U.S.C. 2872 note (formerly 10 U.S.C. 139 note)), relating to the Strategic Defense Initiative and any other antiballistic missile defense program.

(7) The notifications required by section 1501(c) of such Act (98 Stat. 2626), relating to transfers of amounts of authorizations.

(8) The notification required by section 1512 of the Department of Defense Authorization Act, 1985 (98 Stat. 2627), relating to the use of funds for the B-1B bomber aircraft program beyond 100 aircraft.

46 USC app. 1120 note (9) The reports required by section 1536(g) of such Act (98 Stat. 2633; 46 U.S.C. 1120 note), relating to the Commission on Merchant Marine and Defense.

(m) Public Law 99-145.—The exception provided in subsection (d)(3) applies to the following:

100 STAT. 1072 (1) Reports required by section 106(a)(2) of the Department of Defense Authorization Act, 1986 (99 Stat. 596), relating to government-to-government agreements for acquisition in connection with certain NATO cooperative programs.

(2) The certification required by section 125(a)(1) of the Department of Defense Authorization Act, 1986 (99 Stat. 601), relating to any new contract for the procurement of 5-ton trucks.

(3) The legislative environmental impact statement required by section 209(c) of such Act (99 Stat. 610), relating to full-scale

development of a small intercontinental ballistic missile or the selection of basing areas for the deployment of such missile.

(4) The certification required by section 222 of such Act (99 Stat. 613), relating to termination of a prohibition of deployment of a strategic defense system. 10 USC 139 note.

(5) The reports required by section 223 of such Act (99 Stat. 613), relating to the Strategic Defense Initiative.

(6) The quarterly reports required by section 502(c) of such Act (99 Stat. 621), relating to the obligation of funds appropriated for civilian personnel.

(7) The report required by section 1002 of such Act (99 Stat. 705), relating to Soviet compliance with arms control commitments. Union of Soviet Socialist Republics. 22 USC 2592a.

(8) The annual report required by section 1221(d)(2) of such Act (99 Stat. 727), relating to a research program to support the polygraph activities of the Department of Defense.

(9) The annual reports required by section 1407 of such Act (99 Stat. 745), relating to unobligated balances in appropriation accounts. 10 USC 133 note.

(10)(A) The certifications required by subsections (b) and (c)(2) of section 1411 of such Act (99 Stat. 745), relating to the procurement or assembly of binary chemical weapons.

(B) The report required by subsection (e) of such section, relating to consultations among member nations of the North Atlantic Treaty Organization concerning the chemical deterrent posture of the North Atlantic Treaty Organization.

(11) The annual report required by section 1412(g) of the Department of Defense Authorization Act, 1986 (99 Stat. 748), relating to the program for the destruction of the United States stockpile of lethal chemical agents and munitions. 50 USC 1521.

(n) PUBLIC LAW 98-473.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by the proviso in section 8005(m) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1923)), relating to unusual cost overruns incident to overhaul, maintenance, and repair for certain ships.

(2) The annual report required by section 8104(b) of such Act (98 Stat. 1942), relating to consultations with members of common defense alliances concerning Strategic Defense Initiative research. 10 USC 139 note.

(o) PUBLIC LAW 99-190.—The exception provided in subsection (d)(3) applies to the following:

(1) The notifications required by section 8020 or 8021 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1206)), relating to transfers of working capital funds.

(2) The notifications required by section 8021 of such Act (99 Stat. 1206), relating to the obligation of working capital funds to procure war reserve material inventory.

(3) The notifications required by section 8042 of such Act (99 Stat. 1210), relating to the availability of appropriated funds for intelligence or special activities different from activities justified to the Congress.

(4) The notification required by section 8075 of such Act (99 Stat. 1214), relating to the acquisition of certain types of weapons, subsystems, and munitions of European North Atlantic Treaty Organization manufacture.

(5) The certification required by section 8097 of such Act (99 Stat. 1219), relating to the obligation or expenditure of funds to carry out a test of the Space Defense System (anti-satellite weapon) against an object in space. 10 USC 139 note.

(p) MILITARY CONSTRUCTION AUTHORIZATION ACTS.—(1) The exception provided in subsection (d)(3) applies to the annual reports required by section 704 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), relating to contracts for construction in the United States and its possessions.

(2) The exception provided in subsection (d)(3) applies to the following:

(A) The economic analyses required by section 802(d)(1) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), relating to proposed military housing rental guarantee agreements.

(B) The notifications required by section 803(b)(2) of such Act (10 U.S.C. 2821 note), relating to waivers of a requirement to use manufactured or factory-built housing fabricated in the United States by a United States contractor for military family housing construction in foreign countries.

South Carolina.

(3) The exception provided in subsection (d)(3) applies to the report required by section 840(d) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 998), relating to the sale of land at Fort Jackson, South Carolina.

(q) Military Construction Appropriation Acts.—The exception provided in subsection (d)(3) applies to the following:

31 USC 628-3.

(1) The annual report required by the third proviso in the undesignated paragraph under the heading "Foreign Currency Fluctuation, Construction, Defense" in the Military Construction Appropriation Act, 1980 (Public Law 96-130; 93 Stat. 1019), relating to transfers of appropriated funds to eliminate losses in military construction or expenses of family housing caused by fluctuations in foreign currency exchange rates of foreign countries.

(2) The reports required by section 125(a) of the Military Construction Appropriations Act, 1985 (as contained in section 101(e) of Public Law 98-473; 98 Stat. 1883), relating to terminations of a prohibition on the availability of appropriated military construction funds to foreign governments ineligible to receive such funds by reason of inadequate drug control measures.

38 USC 1401 *et seq.*

(r) The report required by section 1436(a) of title 38, United States Code, relating to the New GI-Bill Educational Assistance Program under chapter 30 of such title.

(s) Inspector General Act of 1978.—The exception provided in subsection (d)(3) applies to the following:

5 USC app.

100 STAT. 1074

(1) The semiannual report required by section 5(b) of the Inspector General Act of 1978 (5 U.S.C. App. 3), relating to activities of the Inspector General of the Department of Defense.

(2) The reports required by section 5(d) of such Act (5 U.S.C. App. 3), relating to particular cases of problems, abuses, or deficiencies which have come to the attention of the Inspector General of the Department of Defense.

5 USC app.

(3) The statements required by paragraphs (3) and (4) of section 8(b) of such Act (5 U.S.C. App. 3), relating to the exercise of certain authority of the Secretary of Defense with respect to the activities of the Inspector General of the Department of Defense.

(t) Intelligence Community Provisions.—The exception provided in subsection (d)(3) applies to the following:

(1) The requirement to furnish information and to report to Congress concerning intelligence activities as provided in title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(2) Reports and information required to be furnished under the following provisions of law:

(A) Section 1601(e) of title 10, United States Code, relating to the Defense Intelligence Senior Executive Service.

(B) Section 1604(e) of such title, relating to termination of certain Defense Intelligence Agency personnel.

(C) Section 1605 of such title, relating to benefits and allowances for certain Defense Intelligence Agency civilian personnel.

(3) Reports and information required to be furnished under section 431 of title 37, United States Code, relating to benefits and allowances for certain military personnel assigned to the Defense Intelligence Agency.

(u) ADDITIONAL MISCELLANEOUS EXCEPTIONS.—The exception provided in subsection (d)(3) applies to the following:

(1) The reports required by section 673(d) of title 10, United States Code, relating to the necessity for units of the Ready Reserve being ordered to active duty.

(2) The reports required by section 673b(f) of such title, relating to necessity of ordering units or members of the Selected Reserve to active duty.

(3) The reports required under section 836(b) (article 36(b)) of such title, relating to rules and regulations prescribed by the President under such section.

(4) The reports required by section 867(g)(1) (article 69(g)(1) of such title, relating to the operation of the Uniform Code of Military Justice.

(5) The reports required by subsections (a) and (b) of section 1008 and subsections (e) and (f) of section 1009 of title 37, United States Code, relating to military compensation.

SEC. 603. ANNUAL REPORT ON NATIONAL SECURITY STRATEGY

(a) ANNUAL PRESIDENTIAL REPORT.—(1) Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

100 STAT. 1075

"ANNUAL NATIONAL SECURITY STRATEGY REPORT

"SEC. 104. (a)(1) The President shall transmit to Congress each year a comprehensive report on the national security strategy of the United States (hereinafter in this section referred to as a 'national security strategy report'). 50 USC 404a.

"(2) The national security strategy report for any year shall be transmitted on the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31, United States Code.

"(b) Each national security strategy report shall set forth the national security strategy of the United States and shall include a comprehensive description and discussion of the following:

"(1) The worldwide interests, goals, and objectives of the United States that are vital to the national security of the United States.

"(2) The foreign policy, worldwide commitments, and national defense capabilities of the United States necessary to deter aggression and to implement the national security strategy of the United States.

"(3) The proposed short-term and long-term uses of the political, economic, military, and other elements of the national power of the United States to protect or promote the interests and achieve the goals and objectives referred to in paragraph (1).

"(4) The adequacy of the capabilities of the United States to carry out the national security strategy of the United States, including an evaluation of the balance among the capabilities of all elements of the national power of the United States to support the implementation of the national security strategy.

"(5) Such other information as may be necessary to help inform Congress on matters relating to the national security strategy of the United States.

Classified information.

"(c) Each national security strategy report shall be transmitted in both a classified and an unclassified form.".

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 103 the following new item:

"Sec. 104. Annual national security strategy report.".

Ante, pp. 996, 1022.

(b) **Revision of Annual Secretary of Defense Report.**—Subsection (e) of section 113 (as redesignated by section 101(a) of this Act) is amended to read as follows:

"(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)—

"(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

"(B) an explanation of the relationship of those military missions to that force structure; and

"(C) the justification for those military missions and that force structure.

"(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 104 of the National Security Act of 1947 for the fiscal year concerned.".

Supra.

10 USC 111 note.

100 STAT. 1075a

SEC. 604. LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a draft of legislation to make any technical and conforming changes to title 10, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by this Act.

SEC. 605. GENERAL TECHNICAL AMENDMENTS

(a) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of such subtitle, are amended by striking out the items relating to chapters 3 through 8 and inserting in lieu thereof the following:

"2. Department of Defense	111
"3. General Powers and Functions	121
"4. Office of the Secretary of Defense	131
"5. Joint Chiefs of Staff	151
"6. Combatant Commands	161
"7. Boards, Councils, and Committees	171
"8. Defense Agencies and Department of Defense Field Activities	191".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of such subtitle, are amended by inserting after the item relating to chapter 143 the following new item:

"144. Oversight of Cost Growth in Major Programs	2431".

Approved October 1, 1986.

100 STAT. 1075b

LEGISLATIVE HISTORY—H.R. 3622 (S. 2295) (H.R. 4370):

HOUSE REPORTS: No. 99-375 and No. 99-700 accompanying H.R. 4370 (both from Comm. on Armed Services) and No. 99-824 (Comm. of Conference).
SENATE REPORTS: No. 99-280 accompanying S. 2295 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 20, considered and passed House.
Vol. 132 (1986): May 7, considered and passed Senate, amended, in lieu of S. 2295.
Aug. 11, House concurred in Senate amendments with amendments.
Sept. 16, Senate agreed to conference report.
Sept. 17, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 1, Presidential statement.

Public Law 99-441
99th Congress

100 STAT. 1117

An Act

To extend the expiration date of the Defense Production Act of 1950 and to authorize appropriations for purposes of such Act.

Oct. 3, 1986
[H.R. 5480]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Production Act Amendments of 1986.
50 USC app. 2061 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Production Act Amendments of 1986".

SEC. 2. EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1989".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for fiscal years 1987, 1988, and 1989 not to exceed $150,000,000 to carry out the provisions of section 303, except that not more than $30,000,000 is authorized to be appropriated for fiscal year 1987.

50 USC app. 2093.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 during fiscal years 1987, 1988, and 1989 may not exceed $150,000,000.".

50 USC app. 2091-2093.

SEC. 4. OFFSETS REPORTING REQUIREMENT.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) by striking out "Sec. 309." and inserting in lieu thereof "Sec. 309. (a) Report Required.—";

(2) in the first sentence, by inserting "detailed" before "report"; and

(3) by adding at the end thereof the following new subsection:

"(b) Interagency Studies.—

"(1) In general.—Each report under subsection (a) shall be based on requisite interagency studies designed to progressively capture—

Science and technology.

"(A) the long-term as well as the short-term effects of offsets (with particular attention to the effects resulting from technology transfer associated with offset agreements); and

Business and industry.

"(B) the direct and indirect effects of offsets on lower tier defense subcontractors and on nondefense industry sectors which may be adversely affected by offsets.

"(2) Contents of reports.—Each report under subsection (a) shall contain an appropriate summary of—

"(A) the scope of the interagency studies conducted under paragraph (1); and

100 STAT. 1118

"(B) the findings and conclusions of the agencies involved in the interagency studies (including any differences in the conclusions drawn by such agencies).".

SEC. 5. AMENDMENT TO EXPORT ADMINISTRATION AMENDMENTS ACT OF 1985.

5 USC 5314 note. Section 116(d) of the Export Administration Amendments Act of 1985 is amended by striking "October 1, 1986" and inserting in lieu thereof "October 1, 1987".

Approved October 3, 1986.

LEGISLATIVE HISTORY—H.R. 5480 (S. 2855):

SENATE REPORTS: No. 99-480 accompanying S. 2855 (Comm. on Banking).
CONGRESSIONAL RECORD, Vol. 132 (1986):
Sept. 23, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendments.

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100 STAT. 3190

Public Law 99-569
99th Congress

An Act

Oct. 27, 1986
[H.R. 4759]

To authorize appropriations for fiscal year 1987 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence Authorization Act for Fiscal Year 1987.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1987".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1987 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1987, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 4759 of the Ninety-ninth Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

(b) Funds appropriated to the Department of Defense for fiscal year 1987 for intelligence and intelligence-related activities and listed under the heading "ADDITIONAL SPECIFICALLY AUTHORIZED ACTIVITIES" in the Schedule of Authorizations to which subsection (a) refers, shall be considered to be specifically authorized by the Congress for such activities for purposes of section 502 of the National Security Act of 1947, notwithstanding the absence of authorizations of appropriations for such activities in this Act. 50 USC 414.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1987 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 105. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 106. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated and expended during fiscal year 1987 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance. 50 USC 414.

RESTRICTION ON INTELLIGENCE AGENCY COOPERATION WITH SOUTH AFRICA

SEC. 107. No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa, except activities which are reasonably designed to facilitate the collection of necessary intelligence. It is the policy of the United States that no agency or entity of the United States involved in intelligence activities may provide any intelligence information to the Government of South Africa which pertains to a South African internal opposition 22 USC 5072a.

group, movement, organization, or individual. Any change in such policy, or the provision of intelligence information contrary to such policy, shall be considered a significant anticipated intelligence activity for purposes of section 501 of the National Security Act of 1947. 50 USC 413.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1987 the sum of $22,000,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred thirty seven full-time personnel as of September 30, 1987. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1987, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1987, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1987, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND RELATED MATTERS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1987 the sum of $125,800,000.

SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES OF CIA EMPLOYEES

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following new section: 50 USC 403 note.

"SURVIVOR BENEFITS FOR CERTAIN OTHER FORMER SPOUSES

50 USC 403 note. "SEC. 224. (a)(1) Any individual who was a former spouse of a participant or former participant on November 15, 1982, shall be entitled, to the extent of available appropriations, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 per centum of the greater of—

"(A) the full amount of the participant's or former participant's annuity, as computed under section 221(a); or

"(B) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(2) A survivor annuity payable under this section shall be reduced by an amount equal to the amount of retirement benefits, not including benefits under title II of the Social Security Act, received by the former spouse which are attributable to previous employment of such former spouse by the United States.

42 USC 401.

"(b) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) an election has been made with respect to such former spouse under section 223;

"(2) the former spouse remarries before age fifty-five; or

"(3) the former spouse is less than fifty years of age.

"(c)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on the later of—

"(I) the sixtieth day after such date; or

"(II) the date such former spouse reaches age fifty; and

"(ii) in the case of any other former spouse, beginning on the lastest of—

"(I) the date that the participant or former participant to whom the former spouse was married dies;

"(II) the sixtieth day after the effective date of this section; or

"(III) the date such former spouse reaches age fifty; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age fifty-five.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, within thirty months after the effective date of this section.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(d) The Director shall—

100 STAT. 3194

"(1) as soon as possible, but not later than sixty days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the maximum extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on November 15, 1982, of any rights which such individual may have under this section.".

(b) Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by inserting "224," after "222, 223,".

(c) For fiscal year 1987, not to exceed $500,000 shall be available from amounts appropriated under the authority of section 101(1) of this Act for survivor annuities under section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and under the amendment made by subsection (b) of this section.

Ante, p. 3193.

(d) The amendments made by this section shall take effect on October 1, 1986.

50 USC 403n note.

HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SEC. 303. (a) The Central Intelligence Agency Act of 1949 is amended by adding at the end a new section as follows:

"HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

50 USC 403p.

"SEC. 16. (a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Agency, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the eighteen-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than ten years during periods of service by such employee with the Agency, at least five years of which were spent outside the United States by both the employee and the former spouse,

is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self and family if, before the expiration of the six-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

5 USC 8901 *et seq.*

"(2) The Director of Central Intelligence shall, as soon as possible, take all steps practicable—

100 STAT. 3195

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Director of the Office of Personnel Management, upon notification by the Director of Central Intelligence, shall waive the six-month limitation set forth in paragraph (1) in any case in which the Director of Central Intelligence determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age fifty-five is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age fifty-five shall not be eligible for continued enrollment under this section after the end of the thirty-one-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.". 5 USC 8901 *et seq.*

(b) The amendment made by this section shall take effect on October 1, 1986. 50 USC 403p note.

TITLE IV—COUNTERINTELLIGENCE AND SECURITY

COUNTERINTELLIGENCE OFFICIAL VISITOR EXCHANGES

SEC. 401. (a) Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 539. Counterintelligence official reception and representation expenses 28 USC 539.

"The Director of the Federal Bureau of Investigation may use funds available to the Federal Bureau of Investigation for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Federal Bureau of Investigation for consultation on counterintelligence matters.".

(b) The table of contents for chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following:

"539. Counterintelligence official reception and representation expenses.".

(c) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 140a. Counterintelligence official reception and representation expenses 10 USC 140a.

"The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the 100 STAT. 3196 auspices of the Department of Defense for consultation on counterintelligence matters.".

(d) The table of contents for chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following:

"140a. Counterintelligence official reception and representation expenses.".

FBI ACCESS TO STATE AND LOCAL CRIMINAL RECORDS FOR SECURITY CLEARANCES

SEC. 402. (a) Section 9101 of title 5, United States Code, is amended as follows:

(1) in paragraph (1) of subsection (b) by striking "or" after "Office of Personnel Management,", by inserting "or the Federal Bureau of Investigation," after "the Central Intelligence Agency,", and by striking "department, office or agency" and inserting in lieu thereof "department, office, agency or bureau";

(2) in subparagraph (3)(A) of subsection (b) by striking "or" after "Office of Personnel Management," by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency", by striking "department, office or agency" and inserting in lieu thereof "department, office, agency, or bureau", and by striking "department, office, or agency." and inserting in lieu thereof "department, office, agency, or bureau.";

(3) in subparagraph (3)(B) of subsection (b) by striking "or" after "Office of Personnel Management," and by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency"; and

(4) in subsection (c) by striking "or" after "Office of Personnel Management," and by inserting ", or the Federal Bureau of Investigation" after "the Central Intelligence Agency".

(b) Section 803(a) of the Intelligence Authorization Act for fiscal year 1986 (Public Law 99-169) is amended by striking "and" after 5 USC 9101 note.

"Office of Personnel Management," and by inserting "and the Federal Bureau of Investigation," after "the Central Intelligence Agency,".

5 USC 9101 note. (c) The amendments made by this section shall become effective with respect to any inquiry which begins after the date of enactment of this Act conducted by the Federal Bureau of Investigation for purposes specified in paragraph (b)(1) of section 9101 of title 5, United States Code.

PERMANENT EXTENSION OF DOD AUTHORITY TO USE PROCEEDS FROM COUNTERINTELLIGENCE OPERATIONS

SEC. 403. (a) Chapter 4 of title 10, United States Code, as amended by section 401(c) of this Act, is further amended by adding at the end thereof the following new section:

10 USC 140b.

"§ 140b. Authority to use proceeds from counterintelligence operations of the military departments

"(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, United States Code, use of proceeds from counterintelligence operations conducted by components of the military departments to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

100 STAT. 3197

"(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

"(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments, including effective internal systems of accounting and administrative controls.".

(b) The table of contents for chapter 4 of title 10, United States Code, as amended by section 401(d) of this Act, is further amended by adding at the end thereof the following:

"140b. Authority to use proceeds from counterintelligence operations of the military departments.".

FEDERAL BUREAU OF INVESTIGATION COUNTERINTELLIGENCE ACCESS TO FINANCIAL RECORDS OF AGENTS OF FOREIGN POWERS

SEC. 404. Section 1114(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Financial institutions, and officers, employees, and agents thereof, shall comply with a request for a customer's or entity's financial records made pursuant to this subsection by the Federal Bureau of Investigation when the Director of the Federal Bureau of Investigation (or the Director's designee) certifies in writing to the financial institution that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the customer or entity whose records are sought is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(B) The Federal Bureau of Investigation may disseminate information obtained pursuant ~~to this~~ paragraph only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(C) On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made pursuant to this paragraph.

"(D) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under this paragraph.".

TITLE V—ADMINISTRATIVE AUTHORITIES RELATING TO INTELLIGENCE PERSONNEL

DEFENSE INTELLIGENCE AGENCY CIVILIAN MEDICAL EVACUATION BENEFIT

SEC. 501. Subsection 1605(a) of title 10, United States Code, is amended by inserting ", (5)" after "paragraphs (2), (3), (4)" and after "(22 U.S.C. 4081 (2), (3), (4)". *Ante*, p. 628.

ONE YEAR EXTENSION OF DEFENSE INTELLIGENCE AGENCY SPECIAL TERMINATION AUTHORITY

SEC. 502. Paragraph 1604(e)(1) of title 10, United States Code, is amended by striking "fiscal years 1985 and 1986" and inserting in lieu thereof "fiscal years 1986 and 1987". 50 USC 403e-1.

ACCEPTANCE OF DIRECTOR OF CENTRAL INTELLIGENCE AWARDS BY MILITARY INTELLIGENCE PERSONNEL

SEC. 503. Section 402 of the Intelligence Authorization Act for Fiscal Year 1984 (Public Law 98-215) is amended by adding at the end thereof the following:

"(c) During fiscal year 1987, the Director of Central Intelligence may exercise the authority granted in section 4503(2) of title 5, United States Code, with respect to members of the Armed Forces who are assigned to foreign intelligence duties at the time of the conduct which gives rise to the exercise of such authority.

"(d) An award made by the Director of Central Intelligence to an employee or member of the Armed Forces under the authority of section 4503 of title 5, United States Code, or this section may be paid and accepted notwithstanding—

"(1) section 5536 of title 5, United States Code; and

"(2) the death, separation, or retirement of the employee or the member of the Armed Forces whose conduct gave rise to the award, or the assignment of such member to duties other than foreign intelligence duties.".

MANAGEMENT OF CIVILIAN INTELLIGENCE PERSONNEL OF THE MILITARY DEPARTMENTS

SEC. 504. (a) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1590. Management of civilian intelligence personnel of the military departments 10 USC 1590.

"(a) The Secretary of Defense may, without regard to the provisions of any other law relating to the number, classification, or compensation of employees—

"(1) establish such positions for civilian intelligence officers and employees of the military departments as may be necessary to carry out the intelligence functions of such departments;

"(2) appoint individuals to such positions; and

"(3) fix the compensation of such individuals for service in such positions.

"(b) The Secretary of Defense shall, subject to subsection (c), fix the rates of basic pay for positions established under subsection (a) in relation to the rates of basic pay provided in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except in the case of a civilian intelligence officer or employee of a military department serving as a member of the Senior Executive Service of a military department, no civilian intelligence officer or employee of a military department may be paid basic pay at a rate in excess of the highest rate of basic pay payable under such General Schedule.

100 STAT. 3199

"(c) The Secretary of Defense is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic pay and to apply such provisions to positions for civilian intelligence officers or employees in or under which the military departments may employ individuals described by section 5342(a)(2)(A) of such title.

"(d) In addition to the basic pay payable under subsection (b), civilian intelligence officers and employees of the military departments who are citizens or nationals of the United States and who are stationed outside the continental United States or in Alaska may be paid allowances, in accordance with regulations prescribed by the Secretary of Defense, not in excess of an allowance authorized to be paid by section 5941(a) of title 5 for employees whose rates of basic pay are fixed by statute. Such allowances shall be based on—

"(1) living costs substantially higher than in the District of Columbia;

"(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

"(3) both of the factors described in paragraphs (1) and (2).

"(e)(1) Notwithstanding any other provision of law, the Secretary of Defense may, during fiscal year 1987, terminate the employment of any civilian intelligence officer or employee of a military department whenever he considers that action to be in the interests of the United States and he determines that the procedures prescribed in other provisions of law that authorize the termination of the employment of such officer or employee cannot be invoked in a manner consistent with the national security. The decisions of the Secretary under this paragraph are final and may not be appealed or reviewed outside the Department of Defense. The Secretary of Defense shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever this termination authority is exercised.

"(2) Any termination of employment under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Director of the Office of Personnel Management.

"(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense or the Secretary concerned or both. An action to terminate any civilian intelligence officer or employee of a military department by either such officer shall be appealable to the Secretary of Defense.".

(b) The table of sections at the beginning of chapter 81 of title 10, United States Code is amended by adding at the end thereof the following new item:

"1590. Management of civilian intelligence personnel of the military departments.".

(c) The Secretary of Defense shall conduct a comprehensive review and evaluation of the implementation of section 1590 of title 10, United States Code and shall report thereon to the Congress no later than March 1, 1989. Such report shall—

10 USC 1590 note.

100 STAT. 3200

(1) describe the extent to which the civilian intelligence personnel management systems established under section 1590 of title 10 have improved acquisition and retention of civilian intelligence personnel by the military departments;

(2) describe the elements of uniformity among the civilian intelligence personnel management systems established under section 1590 of title 10;

(3) describe the elements of diversity among the civilian intelligence personnel management systems established under section 1590 of title 10, and explain the need for such diversity based on differences in the intelligence needs or missions of the military departments;

(4) describe the means for oversight within the Office of the Secretary of Defense and each of the military departments for ensuring consistent application of regulations, directives, and guidelines which implement the authority granted under section 1590 of title 10;

(5) contain recommendations for any legislative changes the Secretary of Defense may deem appropriate; and

(6) include such other matters as the Secretary of Defense may deem appropriate.

NATIONAL SECURITY AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 505. The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by adding at the end thereof the following section:

Minorities. Education.

"SEC. 16. (a) The purpose of this section is to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages.

"(b) The Secretary of Defense is authorized, in his discretion, to assign civilian employees of the National Security Agency as students at accredited professional, technical, and other institutions of higher learning for training at the undergraduate level in skills critical to effective performance of the mission of the Agency.

"(c) The National Security Agency may pay, directly or by reimbursement to employees, expenses incident to assignments under subsection (b), in any fiscal year only to the extent that appropriated funds are available for such purpose.

"(d)(1) To be eligible for assignment under subsection (b), an employee of the Agency must agree in writing—

"(A) to continue in the service of the Agency for the period of the assignment and to complete the educational course of training for which the employee is assigned;

"(B) to continue in the service of the Agency following completion of the assignment for a period of one-and-a-half years for each year of the assignment or part thereof;

"(C) to reimburse the United States for the total cost of education (excluding the employee's pay and allowances) provided under this section to the employee if, prior to the employee's completing the educational course of training for which the employee is assigned, the assignment or the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily; and

100 STAT. 3201

"(D) to reimburse the United States if, after completing the educational course of training for which the employee is assigned, the employee's employment with the Agency is terminated either by the Agency due to misconduct by the employee or by the employee voluntarily, prior to the employee's completion of the service obligation period described in subparagraph (B), in an amount that bears the same ratio to the total cost of the education (excluding the employee's pay and allowances) provided to the employee as the unserved portion of the service obligation period described in subparagraph (B) bears to the total period of the service obligation described in subparagraph (B).

"(2) Subject to paragraph (3), the obligation to reimburse the United States under an agreement described in paragraph (1), including interest due on such obligation, is for all purposes a debt owing the United States.

"(3)(A) A discharge in bankruptcy under title 11, United States Code, shall not release a person from an obligation to reimburse the United States required under an agreement described in paragraph (1) if the final decree of the discharge in bankruptcy is issued within five years after the last day of the combined period of service obligation described in subparagraphs (A) and (B) of paragraph (1).

"(B) The Secretary of Defense may release a person, in whole or in part, from the obligation to reimburse the United States under an agreement described in paragraph (1) when, in his discretion, the Secretary determines that equity or the interests of the United States so require.

"(C) The Secretary of Defense shall permit an employee assigned under this section who, prior to commencing a second academic year of such assignment, voluntarily terminates the assignment or the employee's employment with the Agency, to satisfy his obligation under an agreement described in paragraph (1) to reimburse the United States by reimbursement according to a schedule of monthly payments which results in completion of reimbursement by a date five years after the date of termination of the assignment or employment or earlier at the option of the employee.

"(e)(1) When an employee is assigned under this section to an institution, the Agency shall disclose to the institution to which the employee is assigned that the Agency employs the employee and that the Agency funds the employee's education.

"(2) Agency efforts to recruit individuals at educational institutions for participation in the undergraduate training program established by this section shall be made openly and according to the common practices of universities and employers recruiting at such institutions.

5 USC 4101 *et seq.*

"(f) Chapter 41 of title 5 and subsections (a) and (b) of section 3324 of title 31, United States Code, shall not apply with respect to this section.

"(g) The Secretary of Defense may issue such regulations as may be necessary to implement this section.".

CENTRAL INTELLIGENCE AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 506. Pursuant to the authority granted in section 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), the Director of Central Intelligence shall establish an undergraduate training program with respect to civilian employees of the Central Intelligence Agency similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

Ante, p. 3200.

REPORT ON INTELLIGENCE PERSONNEL SYSTEMS

SEC. 507. Not later than January 3, 1987, the Secretary of Defense and the Director of Central Intelligence shall submit jointly to the Congress an unclassified report describing the civilian personnel systems for officers and employees of the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence

Agency, and the personnel systems for officers and employees established under section 1590 of title 10, United States Code, as added by section 504, for civilian intelligence personnel of the military departments. The report shall include descriptions of—

(1) how each such intelligence personnel system differs from the competitive service and from each other such system;

(2) the specific features of each such personnel system to ensure compliance with the merit system principles set forth in section 2301 of title 5, United States Code;

(3) any features of compensation (including bonuses and awards) unique to such personnel system;

(4) authorities to take actions (including the number of such actions) through employment termination provisions which do not permit appeals outside the agency; and

(5) any recruitment or retention problems existing within such system.

TITLE VI—MISCELLANEOUS

DEFENSE MAPPING AGENCY EXCHANGE AGREEMENTS

SEC. 601. (a) Chapter 167 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2795. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations 10 USC 2795.

"The Secretary of Defense may authorize the Defense Mapping Agency to exchange or furnish mapping, charting, and geodetic data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.".

(b) The table of contents of chapter 167 of title 10, United States Code, is amended by adding at the end thereof:

"2795. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.".

100 STAT. 3203

NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

SEC. 602. (a) Title V of the National Security Act of 1947, relating to accountability for intelligence activities, is amended by adding at the end thereof the following:

"NOTICE TO CONGRESS OF CERTAIN TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES

"SEC. 503. (a)(1) The transfer of a defense article or defense service exceeding $1,000,000 in value by an intelligence agency to a recipient outside that agency shall be considered a significant anticipated intelligence activity for the purpose of section 501 of this Act. 50 USC 415. 50 USC 413.

"(2) Paragraph (1) does not apply if—

"(A) the transfer is being made to a department, agency, or other entity of the United States (so long as there will not be a subsequent retransfer of the defense articles or defense services outside the United States Government in conjunction with an intelligence or intelligence-related activity); or

"(B) the transfer—

"(i) is being made pursuant to authorities contained in part II of the Foreign Assistance Act of 1961, the Arms Export Control Act, title 10 of the United States Code (including a law enacted pursuant to section 7307(b)(1) of that title), or the Federal Property and Administrative Services Act of 1949, and 22 USC 2301. 22 USC 2751 note. 40 USC 471 note.

"(ii) is not being made in conjunction with an intelligence or intelligence-related activity.

"(3) An intelligence agency may not transfer any defense articles or defense services outside the agency in conjunction with any intelligence or intelligence-related activity for which funds were denied by the Congress.

"(b) As used in this section—

"(1) the term 'intelligence agency' means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities;

"(2) the terms 'defense articles' and 'defense services' mean the items on the United States Munitions List pursuant to section 38 of the Arms Export Control Act (22 CFR part 121); 22 USC 2778.

"(3) the term 'transfer' means—

"(A) in the case of defense articles, the transfer of possession of those articles; and

"(B) in the case of defense services, the provision of those services; and

"(4) the term 'value' means—

"(A) in the case of defense articles, the greater of—

"(i) the original acquisition cost to the United States Government, plus the cost of improvements or other modifications made by or on behalf of the Government; or

"(ii) the replacement cost; and

"(B) in the case of defense services, the full cost to the Government of providing the services.".

(b) The table of contents at the end of the first section of such Act is amended by inserting the following after the item relating to section 502:

"503. Notice to Congress of certain transfers of defense articles and defense services.".

COVERT AGENT DISCLOSURE FEDERAL PENSION FORFEITURE

SEC. 603. Section 8312(c)(1)(C) of title 5, United States Code is amended by striking the period at the end thereof and inserting in lieu thereof "or section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to intelligence identities).".

TITLE VII—PROTECTION OF UNITED STATES INTERESTS

FOREIGN MISSIONS ACT AMENDMENT

SEC. 701. Section 202(a)(4) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(4)) is amended to read as follows:

"(4) 'foreign mission' means any mission to or agency or entity in the United States which is involved in the diplomatic, consular, or other activities of, or which is substantially owned or effectively controlled by—

"(A) a foreign government, or

"(B) an organization (other than an international organization, as defined in section 209(b) of this title) representing a territory or political entity which has been granted diplomatic or other official privileges and immunities under the laws of the United States or which engages in some aspect of the conduct of the international affairs of such territory or political entity,

including any real property of such a mission and including the personnel of such a mission;".

SOVIET MISSION AT THE UNITED NATIONS

22 USC 287 note. SEC. 702. (a)(1) It is the policy of the Congress that the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission at the United Nations headquarters shall not substantially exceed the number of United States nationals who serve as members of the United States mission at the

United Nations headquarters, unless the President determines that the admission to the United States of additional Soviet nationals to serve as members of the Soviet mission at the United Nations headquarters would be in the interest of the United States.

(2) Beginning six months after the date of enactment of this section, and every six months thereafter, the Secretary of State shall prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth the number of Soviet nationals admitted during the preceding six-month period to the United States pursuant to a determination of the President under paragraph (1) and their duties with the Soviet mission at the United Nations headquarters.

(3) Nothing in this subsection may be construed as including any dependent or spouse who is not a member of a mission at the United Nations headquarters in the calculation of the number of members of a mission at the United Nations headquarters.

(b) It is the sense of the Congress that the Secretary of State and the Attorney General should, not later than six months after the date of enactment of this section, prepare and transmit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report setting forth a plan for ensuring that the number of Soviet nationals described in paragraph (a)(1) does not exceed the limitation described in that paragraph.

(c) For purposes of this section—

(1) the term "members of the Soviet mission" and "members of the United States mission" are used within the meaning of the term "members of the mission", as defined by article 1(b) of the Vienna Convention on Diplomatic Relations, done April 18, 1961; and

(2) the term "mission at the United Nations headquarters" of a country includes all the missions of such country to the United Nations in New York City and includes missions in New York City to specialized agencies of the United Nations, as defined in article 57 of the charter of the United Nations.

New York.

REGISTRATION OF AGENTS OF CERTAIN FOREIGN GOVERNMENTS

SEC. 703. Section 951 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding paragraph (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

"(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

"(2) such person—

"(A) is an agent of the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania, or Cuba, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States require that the provisions of this section do not apply in specific circumstances to agents of such country; or

Soviet Union.
German Democratic Republic.
Hungary.
Czechoslovakia.
Poland.
Bulgaria.
Romania.
Cuba.

"(B) has been convicted of, or has entered a plea of nolo contendere with respect to, any offense under section 792 through 799, 831, or 2381 of this title or under section 11 of the Export Administration Act of 1979, except that the provisions of this subsection shall not apply to a person

18 USC 792–799, 831, 2381.
50 USC app. 2410.

described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere, as the case may be.".

Approved October 27, 1986.

LEGISLATIVE HISTORY—H.R. 4759 (S. 2477):

HOUSE REPORTS: No. 99-690, Pt. 1 (Permanent Select Comm. on Intelligence), Pt. 2 (Comm. on Post Office and Civil Service), Pt. 3 (Comm. on Armed Services), and No. 99-952 (Comm. of Conference).
SENATE REPORTS: No. 99-307 accompanying S. 2477 (Select Comm. on Intelligence).
CONGRESSIONAL RECORD, Vol. 132 (1986):
  Sept. 16, 17, considered and passed House.
  Sept. 24, considered and passed Senate, amended, in lieu of S. 2477.
  Oct. 2, House agreed to conference report.
  Oct. 6, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
  Oct. 27, Presidential statement.

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100 STAT. 3816

Public Law 99-661
99th Congress

An Act

Nov. 14, 1986
[S. 2638]

To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1987.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1987".

SEC. 2. ORGANIZATION

This Act is divided into four divisions as follows:

(1) Division A—Department of Defense Authorizations.
(2) Division B—Military Construction Authorizations.
(3) Division C—Other National Defense Authorizations.
(4) Division D—Child Nutrition Programs.

Department of Defense Authorization Act, 1987.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

SEC. 100. SHORT TITLE; TABLE OF CONTENTS

(a) Short Title.—This division may be cited as the "Department of Defense Authorization Act, 1987".

(b) Table of Contents of Division.—The table of contents of this division is as follows:

Sec. 100. Short title; table of contents.

TITLE I—PROCUREMENT

Part A—Funding Authorizations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Reserve components.

Sec. 106. Extension of authority provided the Secretary of Defense in connection with the NATO Airborne Warning and Control System (AWACS) program.
Sec. 107. Multiyear contracts for fiscal year 1987.
Sec. 108. Air Force fighter competition.

PART B—ARMY PROGRAM LIMITATIONS

Sec. 121. Testing of Bradley Fighting Vehicle.
Sec. 122. Other limitations on Army procurement.

100 STAT. 3817

PART C—NAVY PROGRAM LIMITATIONS

Sec. 131. DDG-51 destroyer program.
Sec. 132. Basic Point Defense Missile System on amphibious vessels.
Sec. 133. Rolling Airframe Missile Program.

PART D—AIR FORCE PROGRAM LIMITATIONS

Sec. 141. Advanced Technology Bomber.
Sec. 142. Prohibition on using funds authorized for the Advanced Technology Bomber and the Advanced Cruise Missile programs for any other purpose and limitation on the B-1B bomber fleet to 100 aircraft.
Sec. 143. C-17 Aircraft Program.
Sec. 144. Advanced Medium-Range Air-to-Air Missile Program.
Sec. 145. T-46 Aircraft Program.

PART E—CHEMICAL WEAPONS

Sec. 151. Authorization of appropriations for chemical demilitarization program.
Sec. 152. Limitation on the expenditure of funds for the BIGEYE binary chemical bomb.
Sec. 153. Chemical weapons, agents, or components at Lexington-Bluegrass Depot.
Sec. 154. Report on chemical weapons demilitarization program.
Sec. 155. Technical amendment to Public Law 99-145 relating to binary chemical munitions.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

Sec. 201. Authorization of appropriations.
Sec. 202. Limitation on Copperhead Guided Projectile.
Sec. 203. Limitations on funds for the Navy.
Sec. 204. Limitations on funds for the Air Force.
Sec. 205. Limitation on funds for Defense Agencies.
Sec. 206. Other limitations.
Sec. 207. Advanced Anti-Armor Weapon System.
Sec. 208. Electronic Warfare Master Plan.
Sec. 209. Limitation on testing electromagnetic pulse.

PART B—STRATEGIC DEFENSE INITIATIVE

Sec. 211. Fiscal year 1987 funding level for Strategic Defense Initiative.
Sec. 212. Tactical ballistic missile defense.
Sec. 213. Limitation on establishment of a federally funded research and development center for the Strategic Defense Initiative Program.
Sec. 214. Report on projected costs of SDI program.
Sec. 215. Report on Strategic Defense Initiative deployment schedule.
Sec. 216. Effect of Strategic Defense Initiative on compliance with the Anti-Ballistic Missile Treaty.
Sec. 217. Report on the Anti-Ballistic Missile Treaty.

PART C—BALANCED TECHNOLOGY INITIATIVE

Sec. 221. Conventional Defense Initiative.
Sec. 222. Balanced Technology Initiative.

PART D—MISCELLANEOUS

Sec. 231. Limitation on testing of anti-satellite weapons.
Sec. 232. ICBM modernization.
Sec. 233. Restriction on use of research and development funds for grants to educational institutions.
Sec. 234. Coordination of research activities of Department of Defense.
Sec. 235. Cooperative medical research with the Veterans' Administration.

100 STAT. 3818

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Authorization of appropriations for assistance to Pan American Games.
Sec. 304. Transportation of livestock feed.
Sec. 305. Authority for payments to NASA for space shuttle services.

PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

Sec. 311. Contract personnel to be included in budget justification.
Sec. 312. Procurement of certain bakery and dairy products outside the United States.
Sec. 313. Functions of military commissaries; purchase of alcoholic beverages by nonappropriated fund instrumentalities.
Sec. 314. Authority for Secretary of Defense to accept gifts for the defense dependents' education system.
Sec. 315. Renovation of facilities.
Sec 316. Prohibition of purchase of petroleum products from companies producing oil in Angola.
Sec. 317. Prohibition of contracts for the performance of certain Army ammunition activities.
Sec. 318. National Board for the Promotion of Rifle Practice.
Sec. 319. Prohibition on joint use of Gray Army Airfield with civil aviation.
Sec. 320. Report on proposed regulations relating to movement of household goods and cargo.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

Sec. 331. Extension of authorization for humanitarian assistance.
Sec. 332. Extension of authority of Secretary of Defense to transport humanitarian relief supplies to certain countries.
Sec. 333. Humanitarian and civic assistance provided in conjunction with military operations.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS AND RELATED MATTERS

PART A—ACTIVE FORCES

Sec. 401. End strengths for active forces.
Sec. 402. Extension of quality control on enlistments into the Army.
Sec. 403. Strength of active duty officer corps.

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TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement for the Army as follows:

(1) For aircraft, $2,725,500,000.
(2) For missiles, $2,150,900,000.
(3) For weapons and tracked combat vehicles, $3,888,100,000.
(4) For ammunition, $2,126,100,000.
(5) For other procurement, $5,112,753,000, of which—
(A) $787,200,000 is for tactical and support vehicles;
(B) $3,083,953,000 is for communications and electronics equipment; and
(C) $1,355,500,000 is for other support equipment.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from a procurement account of the Army for fiscal year 1987 is the amount authorized to be appropriated for such account under subsection (a).

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—(1) Funds are hereby authorized to be appropriated for procurement of aircraft for the Navy for fiscal year 1987 in the amount of $9,828,069,000.

(2) The maximum amount that may be obligated for procurement of aircraft for the Navy for fiscal year 1987 is the amount authorized to be appropriated under paragraph (1).

(b) WEAPONS.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 in the total amount of $5,449,968,000 for procurement of weapons (including missiles and torpedoes) for the Navy.

(2) Funds appropriated or otherwise made available for procurement of weapons (including missiles and torpedoes) for the Navy for fiscal year 1987 may not be obligated in excess of the following amounts:

(A) For missile programs, $4,587,563,000.
(B) For torpedo programs:
For the MK-48 torpedo program, $254,770,000.
For the MK-46 torpedo program, $97,861,000.
For the MK-60 CAPTOR mine program, $30,000,000.
For the MK-50 torpedo program, $94,937,000.
For the antisubmarine rocket (ASROC) program, $13,597,000.
For the vertical Launched ASROC program, $74,289,000.
For the modification of torpedoes and related equipment, $97,705,000.
For the torpedo support equipment program, $32,496,000.
For the antisubmarine warfare range support program, $20,114,000.
(C) For other weapons:
For the MK-15 close-in weapon system program, $105,606,000.
For the MK-75 76-millimeter gun mount program, $14,875,000.
For other weapons programs, $72,721,000.
(D) For spares and repair parts, $150,734,000.

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(c) Shipbuilding and Conversion.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for shipbuilding and conversion for the Navy in the total amount of $10,607,100,000.

(2) Funds appropriated or otherwise made available for shipbuilding and conversion for fiscal year 1987 may not be obligated in excess of the following amounts:

For the Trident submarine program, $1,446,400,000.
For the SSN-688 nuclear attack submarine program, $2,250,800,000.
For the SSN-21 nuclear attack submarine program, $454,300,000.
For the aircraft carrier service life extension program (SLEP), $83,500,000.
For the CG-47 Aegis cruiser program, $2,725,600,000.
For the DDG-51 guided missile destroyer program, $2,470,100,000.
For the LHD-1 amphibious assault ship program, $35,000,000.
For the TAO-187 fleet oiler program, $259,000,000.
For the TAGOS ocean surveillance ship program, $148,100,000.
For the AOE fast combat support ship program, $499,000,000.
For the AO (Jumbo) conversion program, $32,000,000.
For the oceanographic research ship program, $33,000,000.
For the strategic sealift and sealift enhancement ready reserve program, $48,500,000.
For the TACS auxiliary crane ship program, $61,100,000.
For service craft and landing craft, $58,900,000.
For ship contract design, $69,400,000.
For outfitting and post delivery, $393,900,000.

(d) Other Procurement, Navy.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for other procurement for the Navy in the amount of $5,826,942,000.

(2) Funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1987 may not be obligated in excess of the following amounts:

(A) For the ship support equipment program, $1,002,366,000.
(B) For the communications and electronics equipment program, $1,944,630,000.
(C) For aviation support equipment, $820,692,000.
(D) For the ordnance support equipment program, $1,169,120,000.
(E) For civil engineering support equipment, supply support equipment, and command support equipment, $708,442,000.
(F) For spares and repair parts, $302,392,000.

(e) Marine Corps.—(1) Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement for the Marine Corps in the amount of $1,477,408,000.

(2) Funds appropriated or otherwise made available for procurement for the Marine Corps for fiscal year 1987 may not be obligated in excess of the amount authorized to be appropriated in paragraph (1).

(f) P-3 Aircraft.—(1) Of the amount appropriated to the Navy for fiscal year 1987 for procurement of P-3C aircraft, not more than $120,000,000 is available for modification of existing P-3 aircraft.

(2) From funds appropriated or otherwise made available to the Navy for procurement of aircraft for fiscal year 1987, the Secretary of the Navy may not obligate more than a total of $359,400,000 for—

100 STAT. 3826

(A) procurement of P-3C aircraft; and
(B) modifications to existing P-3 aircraft.

(3) Of the P-3 aircraft procured by the Navy with funds appropriated to the Navy for procurement of aircraft for fiscal year 1986 or 1987, the Secretary of the Navy may use two such aircraft to carry out obligations of the United States under the classified Maritime Surveillance Agreement of 1986.

SEC. 103. AIR FORCE

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

(1) For aircraft, $17,018,632,000.

(2) For missiles, $7,570,472,000.

(3) For other procurement, $9,180,923,000, of which—

(A) $1,101,029,000 is for munitions and associated support equipment;

(B) $300,196,000 is for vehicular equipment;

(C) $2,461,159,000 is for electronics and telecommunications equipment; and

(D) $5,588,539,000 is for other base maintenance and support equipment.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from a procurement account of the Air Force for fiscal year 1987 is the amount authorized to be appropriated for such account under subsection (a) plus, in the case of the appropriation account "Other Procurement, Air Force", the amount of $77,900,000.

SEC. 104. DEFENSE AGENCIES

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the Defense Agencies in the amount of $1,418,660,000.

(b) LIMITATION OF OBLIGATION.—Funds appropriated or otherwise made available for procurement for fiscal year 1987 for the Defense Agencies may not be obligated in excess of the amount authorized to be appropriated in subsection (a).

SEC. 105. RESERVE COMPONENTS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

For the Army National Guard, $147,500,000.
For the Air National Guard, $50,000,000.
For the Army Reserve, $90,000,000.
For the Naval Reserve, $61,000,000.
For the Air Force Reserve, $150,000,000.
For the Marine Corps Reserve, $65,000,000.

(b) AUTHORIZATIONS IN ADDITION TO OTHER AMOUNTS.—The authorizations of appropriations contained in subsection (a) are in addition to any other amounts authorized to be appropriated by this or any other Act.

(c) FY87 LIMITATION ON OBLIGATIONS FOR UNBUDGETED ITEMS.—Of the amount appropriated or otherwise made available to the Department of Defense for fiscal year 1987 for procurement, not more than $563,500,000 may be obligated or expended for procurement of equipment for the reserve components of the Armed Forces (including the National Guard) for items not included in the President's budget for fiscal year 1987, as set forth in the budget justification documents submitted to Congress in support of the budget request for the Department of Defense.

(d) FUTURE BUDGET REQUESTS FOR GUARD AND RESERVE EQUIPMENT.—Section 114 of title 10, United States Code (as redesignated by section 101(a) and amended by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by adding at the end the following new subsection:

Ante, p. 1001.

"(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.".

SEC. 106. EXTENSION OF CERTAIN AUTHORITY PROVIDED THE SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Effective on October 1, 1986, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1986" both places it appears and inserting in lieu thereof "fiscal year 1987".

SEC. 107. MULTIYEAR CONTRACTS FOR FISCAL YEAR 1987

(a) Army.—Subject to subsections (d) and (e), the Secretary of the Army may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(1) UH-60A Blackhawk airframe.
(2) EH-60A Quick Fix airframe.
(3) Patriot missile system.
(4) Stinger air defense missile system.

(b) Navy.—(1) Subject to subsection (d), the Secretary of the Navy may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the following programs:

(A) HARM missile system.
(B) MK-45 gun mounts.
(C) MK-6 ammunition hoists.

(2) The Secretary of the Navy may not enter into a multiyear contract for the procurement of the F/A-18 aircraft.

(c) Air Force.—Subject to subsection (d), the Secretary of the Air Force may enter into a multiyear contract under section 2306(h) of title 10, United States Code, for the Defense Support Program.

(d) Limitations on Authorized Multiyear Procurements.—The Secretary concerned may not enter into a multiyear contract authorized by this section for a program unless the total anticipated cost for the program over the period of the contract is no more than 88 percent of the total anticipated cost of carrying out such program through annual contracts. In the case of the Defense Support Program, the preceding sentence shall be applied by substituting "80 percent" for "88 percent".

(e) Stinger Missile.—(1) The Secretary of the Army may not enter into a contract for the multiyear procurement of the Stinger air defense missile until—

100 STAT. 3828 (A) the Secretary—

(i) obtains and evaluates bids for a competitive second source for such missile; and

(ii) certifies to the Committees on Armed Services of the Senate and the House of Representatives that acquisition of such missile from more than one source would be more costly than a multiyear procurement program from a single source; and

(B) the Comptroller General of the United States evaluates the competitive proposals on the basis of which the Secretary made the decision referred to in subparagraph (A)(ii) and submits his evaluation of the estimates to such committees.

(2) The Comptroller General shall submit his evaluation under paragraph (1)(B) not later than 60 days after the date on which the certification of the Secretary under paragraph (1)(A) is received by such committees.

SEC. 108. AIR FORCE FIGHTER COMPETITION

(a) Multiyear Contracts.—Subject to provisions of appropriations Acts, the Secretary of the Air Force may award a multiyear contract, that employs economic order quantity procurement, for the purchase of Air Defense Aircraft in accordance with section 2306(h) of title 10, United States Code, without prior notice to Congress if the results of the competitive source selection demonstrate that—

(1) a multiyear contract will yield significant savings over the amount that would have resulted under an annual contract with the selected offeror; and

(2) those savings have a positive present value.

(b) Cancellation Ceiling.—Subject to provisions of appropriations Acts, the cancellation ceiling associated with the first year of a multiyear contract under subsection (a) may be carried as an unfunded contingent liability subject to section 2306(h)(5) of title 10, United States Code.

Part B—Army Program Limitations

SEC. 121. TESTING OF BRADLEY FIGHTING VEHICLE

(a) Required Testing.—The Secretary of Defense shall require that testing of the Bradley Fighting Vehicle (including live-fire testing and testing of the operational combat performance) and evaluation of that testing are carried out in accordance with this section.

(b) Test Plan for Survivability Enhancements and Operational Combat Performance.—(1) The Secretary of Defense shall develop a plan for the testing and evaluation of the Bradley Fighting Vehicle required by subsection (a). The plan shall include testing of—

(A) a version of the vehicle configured to include the survivability enhancements for the vehicle proposed by the Army (hereinafter in this section referred to as the "Army vehicle"); and

(B) a version of the vehicle configured to include the concept of the so-called "minimum casualty vehicle" (hereinafter in this section referred to as the "minimum casualty vehicle").

(2) The plan developed under paragraph (1) shall include the following:

(A) A plan for—

(i) live-fire testing of the survivability of the Army vehicle and testing of the operational combat performance of such vehicle; and

(ii) evaluation of such testing.

(B) A plan for—

(i) live-fire testing of the survivability of the minimum casualty vehicle and testing of the operational combat performance of such vehicle; and

(ii) evaluation of such testing.

(C) A plan for comparing the testing and evaluation under subparagraph (A) with the testing and evaluation under subparagraph (B).

(3) The plan under paragraph (1) shall be developed to ensure that the testing of the Bradley Fighting Vehicle is the most realistic and suitable testing, at a reasonable cost, for evaluation of both vehicles.

(4) The aspects of the plan developed under paragraph (1) relating to operational combat performance shall be developed in consultation with the Director of Operational Test and Evaluation of the Department of Defense. The aspects of the plan relating to survivability enhancements shall be developed in consultation the Director of Defense Research and Engineering and the National Academy of Sciences.

(c) Certification of Plan.—(1) After developing the plan required by subsection (b), the Secretary shall certify to Congress that the plan for the testing of both versions of the Bradley Fighting Vehicle (including the conditions for the testing) is the most realistic and suitable plan, at a reasonable cost, for evaluation of the survivability and the likely operational combat performance of the Army vehicle and the minimum casualty vehicle.

(2) The Comptroller General shall—

(A) review all materials of the Department of Defense used to develop the plan with respect to which the certification under paragraph (1) is made; and

(B) submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a Report.

report giving the assessment of the Comptroller General as to the realism and suitability of the plan (including the conditions for the testing set forth in the plan) for evaluation of the survivability and the likely operational combat performance of the Army vehicle and the minimum casualty vehicle.

(d) CONDUCT OF TESTING.—The Secretary of the Army shall test both versions of the Bradley Fighting Vehicle in accordance with the plan (including the conditions for the testing set forth in the plan) with respect to which the certification was made.

(e) REVIEW AND OVERSIGHT.—(1) The Director of Operational Test and Evaluation of the Department of Defense shall review the results of the operational testing of the vehicle. The Director of Defense Research and Engineering shall review the results of the survivability testing of the vehicle.

(2) The Director of Operational Test and Evaluation, the Director of Defense Research and Engineering, and the Comptroller General (or members of their respective staffs) shall each observe the conduct of the testing.

(f) REPORTS.—(1) The Secretary of Defense shall submit to Congress a report on the results of the testing of the Bradley Fighting Vehicle under this section. The report shall include such findings and recommendations as the Secretary considers appropriate.

Report.

(2) The Comptroller General shall submit to Congress a report on the testing of the Bradley Fighting Vehicle. The report shall include—

(A) the opinion of the Comptroller General on the adequacy of the testing and on the test results; and

(B) the opinion of the Comptroller General (to the extent appropriate) on the conclusions and recommendations of the Secretary set forth in the report under paragraph (1).

SEC. 122. OTHER LIMITATIONS ON ARMY PROCUREMENT

(a) 120-MILLIMETER MORTAR PROGRAM.—(1) Except as provided in paragraph (3), funds appropriated or otherwise available for procurement for the Army may not be obligated for procurement of 120-millimeter mortars manufactured or assembled outside the United States or for procurement of ammunition manufactured outside the United States for 120-millimeter mortars.

(2) Funds appropriated or otherwise made available for fiscal year 1987 for procurement for the Army may not be obligated for procurement of 120-millimeter mortars until the Secretary of the Army conducts a cost-effectiveness analysis of potential domestic sources for the manufacture of such mortars.

(3) Paragraph (1) does not apply to procurement of mortars required—

(A) for testing, evaluation, or type classification; or

(B) for equipping the Ninth Infantry Division.

(b) MOTORCYCLES.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement for the Army may not be obligated for procurement of motorcycles until the Secretary of the Army certifies to Congress that the acquisition strategy of the Army for procurement of motorcycles includes consideration of—

(1) life-cycle costs;

(2) safety;

(3) maintenance; and

(4) durability.

(c) AIR-TO-AIR STINGER MISSILE.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement of aircraft for the Army may not be obligated for the modification program for the air-to-air Stinger missile until the Secretary of the Army—

(1) establishes a comprehensive acquisition plan for procurement of air-to-air Stinger missiles for Army aircraft; and

Report.

(2) submits a report on such plan to the Committees on Armed Services of the Senate and House of Representatives.

(d) **Aquila Remotely Piloted Vehicle.**—None of the funds appropriated to the Army pursuant to this title may be obligated or expended for the procurement of the Aquila Remotely Piloted Vehicle until—

(1) the Director of Operational Test and Evaluation of the Department of Defense completes a comprehensive assessment of the Aquila system; and

(2) the Secretary of the Army certifies to the Committees on Armed Services of the Senate and House of Representatives that—

(A) the Aquila system has satisfactorily demonstrated that it meets or exceeds all performance criteria established for the system by the Army; and

(B) the Secretary has negotiated a contract that—

Contracts.

(i) provides for procurement of the entire system, and

(ii) limits the overall liability of the United States under the contract.

(e) **Mobile Subscriber Equipment Program.**—The total program acquisition cost for the communications and electronics equipment program of the Army known as the Mobile Subscriber Equipment Program (as such program exists on the date of the enactment of this Act) may not exceed $4,300,000,000. If the total program acquisition cost for such program (as it exists on the date of the enactment of this Act) is determined at any time to exceed such amount, the Secretary of the Army shall cancel the program.

Part C—Navy Program Limitations

SEC. 131. REPEAL OF LIMITATION ON DDG-51 DESTROYER PROGRAM

Section 102(h) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2501), is repealed.

SEC. 132. BASIC POINT DEFENSE MISSILE SYSTEM ON AMPHIBIOUS VESSELS

The Secretary of the Navy shall maintain in an operational status the Basic Point Defense Missile System on any amphibious vessel equipped on the date of the enactment of this Act with such system until a follow-on system, of comparable capability, is available for immediate replacement of the system on such vessel. This section does not apply to a vessel that is retired.

SEC. 133. ROLLING AIRFRAME MISSILE PROGRAM

(a) **Required Certification.**—(1) None of the funds appropriated or otherwise made available to the Navy for fiscal year 1987 for procurement may be obligated or expended in connection with procurement of the Rolling Airframe Missile program until the Secretary of Defense certifies in writing to the Committees on Armed Services of the Senate and House of Representatives that—

Research and development.

(A) the total amount expended by the Navy for research, development, test, and evaluation for such program will not exceed $219,700,000;

(B) the Secretary will terminate the program if at any time he determines that the total Navy research and development cost for the program will exceed the amount specified in subparagraph (A);

Contracts.

(C) the development contractor for the program has offered the Department of Defense a firm fixed-price contract option with no expiration date for an initial quantity of 500 missiles (integrated with the required Government-furnished components and tested to the complete missile level) which will result in a recurring missile unit flyaway cost that does not exceed $145,000 (based on fiscal year 1986 dollars);

(D) the recurring missile unit flyaway cost for a minimum of 4,900 missiles will not exceed $100,000 (based on fiscal year 1986 dollars);

(E) the design of the Rolling Airframe Missile and its unique support equipment are complete and the system performance has not been degraded from the original development specifications (as contained in Navy Decision Coordinating Paper No. SO-167-AA);

(F) the Director of Operational Test and Evaluation of the Department of Defense has approved a test and evaluation master plan for the Rolling Airframe Missile program; and

Federal Republic of Germany.

(G) the contractor for the production contract for the program has agreed to provide to the United States, at no additional cost to the United States or to the Federal Republic of Germany, a complete data package containing no manufacturing or proprietary data rights of the contractor in conjunction with a license to the United States under which rights are granted to enable a second source contractor designated by the United States to manufacture and sell to the United States or the Federal Republic of Germany on a royalty-free basis, and to enable the United States and the Federal Republic of Germany to use, on a royalty-free basis, the Ex-44 Guided Missile Round Pack consisting of guidance and control section, tail assembly, and canister.

Effective date.

(2) If the Secretary of Defense fails to make the certification described in paragraph (1) before April 1, 1987, the Secretary shall terminate the program effective on that date.

(b) REPEAL.—Subsection (d) of section 205 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 608), is repealed.

PART D—AIR FORCE PROGRAM LIMITATIONS

SEC. 141. ADVANCED TECHNOLOGY BOMBER

Report.

(a) ACQUISITION STRATEGY.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the Secretary for the Advanced Technology Bomber program.

(2) Except as provided in subsection (b), the acquisition strategy described in the report shall include an analysis of alternatives for limiting program costs during production, including the following:

(A) Alternative sources for major systems of the Advanced Technology Bomber.

(B) Alternative sources for major subsystems of the bomber.

(C) Competition during the integration and assembly of the bomber.

(D) A limitation on the total program cost for 132 Advanced Technology Bomber aircraft.

(3) The report under paragraph (1) shall include the recommendations of the Secretary with respect to the choice and timing of such alternatives.

(4) The report under paragraph (1) shall be submitted not later than the date on which the President submits the budget to Congress for fiscal year 1988.

(b) EXCEPTION FOR COMPETITIVE ALTERNATIVE SOURCE REQUIREMENT.—(1) The Secretary of Defense need not recommend the implementation of any of the alternatives if the Secretary determines that the application of those alternatives to control program costs would—

(A) increase the total cost of the program;

(B) result in unacceptable delays in fulfilling the needs of the Department of Defense; or

(C) be adverse to the national security interests of the United States.

100 STAT. 3833

(2) If the Secretary makes a determination under paragraph (1), the report of the Secretary under subsection (a) shall include—

(A) a notice of such determination; and

(B) documentation in support of such determination, including comparative cost and schedule estimates and other background material.

(c) Limitation on Amount Available for FY87.—The Secretary of Defense may not obligate funds appropriated for fiscal year 1987 for the Advanced Technology Bomber in an amount greater than the amount appropriated for such program for fiscal year 1986 until the Secretary submits the report described in subsection (a).

(d) Revisions to Acquisition Strategy.—After the report required by subsection (a) is submitted, the Secretary of Defense may not implement a revision to the acquisition strategy described in the report until—

Report.

(1) the Secretary submits to the committees named in that subsection a report describing the proposed revision; and

(2) a period of 60 days passes after the date on which the report on the revision is received by the committees.

(e) Financial Analysis.—(1) In determining for purposes of subsection (a) the appropriate amount for a limitation on the total program cost for the development and production of 132 Advanced Technology Bomber aircraft, the Secretary of Defense shall conduct a detailed financial analysis on the projected cost of such development and production.

Report.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report setting forth the results of the analysis required under paragraph (1), including the current estimate of the projected total cost for the development and production of 132 Advanced Technology Bomber aircraft.

Contracts.

(3) The Secretary shall submit a copy of the report under paragraph (2) to the Comptroller General of the United States for review. The Secretary shall make available to the Comptroller General such additional data and information as the Comptroller General requires for the purposes of such review. A report by the Comptroller General concerning data and information provided under this paragraph may, consistent with the classification of such report, be provided to Congress. Any such report shall be prepared with due regard to the sensitivity of the information received from the Secretary in such manner as will avoid disclosure of data or information which could adversely affect ongoing contract negotiations or the national security.

SEC. 142. PROHIBITION ON USING FUNDS AUTHORIZED FOR THE ADVANCED TECHNOLOGY BOMBER AND THE ADVANCED CRUISE MISSILE PROGRAMS FOR ANY OTHER PURPOSE AND LIMITATION ON THE B-1B BOMBER FLEET TO 100 AIRCRAFT

(a) Sense of Congress.—It is the sense of Congress that—

(1) the capabilities inherent in the technologies associated with the Advanced Technology Bomber and the Advanced Cruise Missile Program are a critical national security asset for maintaining an adequate and credible deterrent posture;

Union of Soviet Socialist Republics.

(2) such technologies and programs should be developed as rapidly as feasible in order to produce and deploy advanced systems which will complicate the military planning of the Soviet Union and as a consequence enhance the deterrent posture of the United States;

100 STAT. 3834

(3) such technologies and programs should be funded at the levels authorized in this Act; and

(4) all the funds appropriated for such programs should be fully used for such programs.

(b) ATB and ACM Programs.—Funds appropriated to the Department of Defense for fiscal year 1987 to carry out the Advanced Technology Bomber Program may not be used for any other purpose. Funds appropriated to the Department of Defense for fiscal year 1987 to carry out the Advanced Cruise Missile Program may not be used for any other purpose.

(c) B–1B Aircraft.—Funds appropriated to the Department of Defense may not be used for procurement (including procurement of long-lead items, materials, systems, or subsystems) of the B–1B bomber aircraft beyond the 100 such bombers authorized by law before the date of the enactment of this Act.

SEC. 143. C-17 AIRCRAFT PROGRAM

Of the funds appropriated to the Air Force for procurement of the C–17 aircraft for fiscal year 1987, not more than $64,000,000 may be obligated before April 15, 1987.

SEC. 144. ADVANCED MEDIUM-RANGE AIR-TO-AIR MISSILE PROGRAM

(a) Conditions for Low-Rate Production.—Funds appropriated or otherwise made available for fiscal year 1987 for procurement of missiles for the Air Force may not (except as provided under subsection (c)) be obligated for low-rate production procurement of the Advanced Medium-Range Air-to-Air Missile (AMRAAM) until—

(1) the Secretary of the Air Force evaluates the results of the flight tests of the performance of the missile in comparison with the Milestone IIIA Low Rate Initial Production Go-Ahead decision criteria contained in the November 27, 1985, Appendix 1 to Annex B of the AMRAAM Decision Coordinating Paper; and

Report. (2) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report describing such test results and the Secretary's evaluation of such test results under paragraph (1).

(b) Testing of Producibility Enhancements.—The Secretary of the Air Force shall test producibility enhancements for such missile before such enhancements are incorporated into production missiles.

(c) Limitation on Long-Lead Procurement.—Of the amount described in subsection (a), not more than $170,000,000 may be obligated for long-lead procurement of such missiles without regard to the limitation in such subsection.

(d) Total Procurement Cost.—The cost of procurement of such missile may not exceed $7,000,000,000 (in fiscal year 1984 dollars), based upon procurement of 24,000 missiles. The amount of the limitation in the preceding sentence may be adjusted to reflect the effects of congressional funding actions on the established program. Report. Notice of any such adjustment shall be provided to Congress in the next report submitted with respect to such missile program under section 2432 of title 10, United States Code, relating to Selected Acquisition Reports.

SEC. 145. T-46 AIRCRAFT PROGRAM

(a) Competition for Trainer Aircraft.—(1) No funds may be 100 STAT. 3835 obligated or expended for the procurement of the T–46 trainer aircraft until the Secretary of the Air Force conducts a competition evaluating the cost and performance of the following:

(A) The proposed T–46A trainer aircraft.

(B) The existing T–37 trainer aircraft.

(C) An upgraded T–37 trainer aircraft.

(D) Any other aircraft capable of meeting Air Force training requirements.

(2) The competition described in paragraph (1) shall include a fly-off between the T–37, T–46, and any other candidate aircraft for such competition.

(3) Any funds appropriated to the Air Force for fiscal year 1986 for the T–46 aircraft program and which remain available for obligation may be used for the purpose of conducting the competition referred to in paragraph (1).

(b) Limitation on Fiscal Year 1987 Funds.—Funds appropriated to the Air Force for fiscal year 1987 may not be used for procurement of the T–46 aircraft.

PART E—CHEMICAL WEAPONS

SEC. 151. AUTHORIZATION OF APPROPRIATIONS FOR CHEMICAL DEMILITARIZATION PROGRAM

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Secretary of Defense for fiscal year 1987 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747), in the amount of $120,100,000. 50 USC 1521.

(b) LIMITATION OF OBLIGATION.—Funds appropriated or otherwise made available for procurement for fiscal year 1987 for the program described in subsection (a) may not be obligated in excess of the amount authorized to be appropriated in that subsection.

SEC. 152. LIMITATION ON THE EXPENDITURE OF FUNDS FOR THE BIGEYE BINARY CHEMICAL BOMB

(a) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Before October 1, 1987, funds appropriated for fiscal year 1987 for procurement of the BIGEYE binary chemical bomb may not be obligated—

(1) for procurement (including procurement of components) of such bomb; or

(2) for assembly of such bomb.

(b) LIMITATION ON FINAL ASSEMBLY.—Before October 1, 1988, funds appropriated or otherwise made available to the Department of Defense may not be obligated or expended for the final assembly of complete BIGEYE binary chemical bombs.

(c) LIMITATION ON FISCAL YEAR 1986 FUNDS FOR PRODUCTION FACILITIES.—(1) Of the funds appropriated for fiscal year 1986 for production facilities for the BIGEYE binary chemical bomb, not more than $90,000,000 may be obligated or expended. None of such amount may be obligated or expended until the President certifies to Congress that— President of U.S. Defense and national security.

(1) production of the BIGEYE binary chemical bomb is in the national security interests of the United States; and

(2) the design, planning, and environmental requirements for such facilities have been satisfied.

100 STAT. 3836

(d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

(2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

(e) REPORT ON LONG-RANGE STANDOFF CHEMICAL MUNITIONS.—(1) The Secretary of Defense shall submit to Congress a report on the military requirements for long-range standoff chemical weapons. The report shall address the military advantages and disadvantages of such weapons and the potential of such weapons to complement the currently planned binary chemical weapon systems.

(2) Such report shall be submitted not later than March 15, 1987.

SEC. 153. CHEMICAL WEAPONS, AGENTS, OR COMPONENTS AT LEXINGTON-BLUEGRASS DEPOT

(a) PROHIBITION ON SHIPMENTS TO DEPOT.—No chemical weapons, agents, or components used in chemical weapons may be shipped into the Lexington-Bluegrass Depot in Richmond, Kentucky, for any purpose, including disposal. Kentucky.

(b) PROHIBITION ON FUTURE USE OF DEPOT.—After disposal of the chemical weapons stockpile stored at the Lexington-Bluegrass Depot, as required by section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145), the depot may not be 50 USC 1521 used for assembly, construction, testing, storage, or disposal of any chemical or biological weapon.

Defense and national security.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the provisions of subsection (a) or (b) if the Secretary determines that such a waiver is in the national security interest of the United States.

SEC. 154. REPORT ON CHEMICAL WEAPONS DEMILITARIZATION PROGRAM

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the chemical weapons demilitarization program required by section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 747). The report shall describe—

50 USC 1521.

(1) methods for carrying out such program that would optimize safety considerations; and

(2) methods for carrying out such program that would optimize cost-effectiveness considerations.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than February 1, 1987

SEC. 155. TECHNICAL AMENDMENT TO PUBLIC LAW 99-145 RELATING TO BINARY CHEMICAL MUNITIONS

Section 1411(b)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 745), is amended by striking out "North Atlantic Council" and inserting in lieu thereof "Defense Planning Committee of the North Atlantic Treaty Organization meeting in permanent session".

100 STAT. 3837

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

PART A—AUTHORIZATION OF APPROPRIATIONS AND PROGRAM LIMITATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

(1) For the Army, $4,712,729,000.

(2) For the Navy (including the Marine Corps), $9,294,106,000.

(3) For the Air Force, $15,019,084,000.

(4) For the Defense Agencies, $7,189,633,000, of which—

(A) $133,800,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(B) $11,300,000 is authorized for the Director of Operational Test and Evaluation.

(b) LIMITATION ON OBLIGATIONS.—The maximum amount that may be obligated from an account for which funds are authorized to be appropriated in subsection (a) is the amount authorized to be appropriated for such account under that subsection plus any amount authorized for such account under subsection (b) plus the following:

(1) For the Army, $5,830,000.

(2) For the Navy, $72,000.

(3) For the Air Force, $2,400,000.

SEC. 202. LIMITATION ON COPPERHEAD GUIDED PROJECTILE

Contract.

(a) REQUIREMENT FOR SECOND SOURCE.—The Secretary of the Army may not enter into a contract for any product improvement or modification to the Copperhead Guided Projectile until the Secretary of Defense submits to Congress a written certification that—

(1) a competition for a second source for production of such projectile has been conducted; and

(2) a second source for production of such projectile has been selected.

(b) PRODUCT IMPROVEMENT OR MODIFICATION.—For purposes of subsection (a), a product improvement or modification is any change to the production configuration of the Copperhead Guided Projectile in effect on the date of the enactment of this Act.

(c) EXPIRATION OF LIMITATION.—The limitation in subsection (a) expires upon the enactment of a law making appropriations for the Department of Defense for fiscal year 1988.

SEC. 203. LIMITATIONS ON FUNDS FOR THE NAVY

(a) V-22 OSPREY AIRCRAFT.—Of the funds authorized in section 201 for the Navy, not more than $386,871,000 is available for the V-22 Osprey aircraft. Not more than one-half of such amount may be obligated or expended until the Secretary of the Navy certifies to the Committees on Armed Services of the Senate and the House of Representatives in writing that—

(1) such aircraft is capable of performing the antisubmarine warfare mission currently performed by the S-3A aircraft; and

(2) such aircraft is the most cost effective aircraft to perform that mission.

(b) MARINE CORPS PEGASUS ENGINE.—Of the funds appropriated pursuant to authorizations in this title, not less than $8,000,000 shall be used for safety and reliability improvements for the Marine Corps AV-8B aircraft Pegasus engine program.

Report.

(c) AVIONICS RACK FOR S-3 AIRCRAFT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than 30 days after the date of the enactment of this Act a report on the manner in which the Navy proposes to correct whatever deficiencies exist in the avionics rack for the S-3 aircraft.

(d) RANKINE CYCLE ENERGY RECOVERY (RACER) SYSTEM.—Of the funds appropriated to the Navy for research, development, test, and evaluation for fiscal year 1987, the sum of $20,000,000 shall be available to the Secretary of Defense for evaluation of the Rankine Cycle Energy Recovery (RACER) system and such testing as the Secretary determines necessary.

(e) LOW-COST SEEKER MISSILE.—Of the funds authorized in section 201 for the Navy, $39,704,000 is available only for the Low-Cost Seeker Missile program.

(f) TRIDENT II PROGRAM.—None of the funds appropriated to the Department of Defense for fiscal year 1987 for the Trident II missile development program or for the procurement of Trident II missiles and related support equipment may be used for any other purpose. In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1987, the Secretary of the Navy may not reduce the amount of funds available for the program and equipment described in the preceding sentence.

Report.

(g) FUNDS FOR LIBYAN LESSONS-LEARNED EQUIPMENT MODIFICATION.—Of the amount appropriated for research, development, test, and evaluation for the Navy for fiscal year 1987, $50,000,000 may be obligated or expended for programs directly related to the Libyan lessons-learned study, subject to the condition that none of the funds may be obligated or expended for such programs until 30 days after the date on which the Secretary of the Navy submits to the Committees on Armed Services of the Senate and House of Representatives a report explaining the purposes for which the funds are proposed to be used.

SEC. 204. LIMITATIONS ON FUNDS FOR THE AIR FORCE

Report.

(a) SHORT-RANGE ATTACK MISSILE.—None of the funds appropriated to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation may be obligated or expended for the purpose of full-scale development of a new or modified short-range attack missile (SRAM) until the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report concerning the short-range attack missile that includes the following:

(1) Data and other information sufficient to compare—

(A) the total program cost, and the effectiveness, of the minimum modification of the existing motors for such missile; with

(B) the total program cost, and the effectiveness, of the development of a new short-range attack missile;

100 STAT. 3839

(2) Data and other information sufficient to compare—

(A) the total program cost, and the effectiveness, of the modification of an existing warhead for the short-range attack missile; with

(B) the total program cost, and the effectiveness, of the development of an all new warhead for the short-range attack missile.

(3) The recommendation of the Secretary with respect to the most cost-effective missile and warhead configuration for the short-range attack missile.

(b) Low-Cost Seeker Missile.—Of the funds authorized in section 201 for the Air Force, $17,375,000 is available only for the Low-Cost Seeker Missile program.

(c) Space Defense System.—Of the amount authorized in section 201 for the Air Force, not more than $200,000,000 is available for the Space Defense System. None of such amount may be used for the production verification of the Miniature Homing Vehicle.

(d) Pave Tiger/Seek Spinner System.—Of the funds authorized in section 201 for the Air Force, $80,000,000 is available only for facilitization for production of the Pave Tiger/Seek Spinner System.

SEC. 205. LIMITATION ON FUNDS FOR DEFENSE AGENCIES

(a) Medical Application of Free Electron Laser.—Of the amount authorized in section 201 for the Defense Agencies (including the Strategic Defense Initiative Organization), $15,000,000 may be used only for the application of Free-Electron Lasers for medical research and material.

(b) Laser Pantography.—Of the amount authorized to be appropriated in section 201 for the Defense Agencies for Microwave/Millimeter Wave Monolithic Integrated Circuit Technology efforts, $4,000,000 is available only for the Laser Pantography project.

(c) Strategic Technology.—Of the funds authorized in section 201 for the Defense Agencies, $240,620,000 is available only for the Strategic Technology program. Of such amount, $10,000,000 is available only for independent research in the field of ocean science and related fields to provide an assessment of the possibilities of nonacoustic detection of submarines.

SEC. 206. OTHER LIMITATIONS

(a) Advanced Field Artillery Tactical Data System/Marine Integrated Fire and Air Support Systems, Army/Navy.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation may be obligated or expended for the development of the Army Advanced Artillery Tactical Data System or the Marine Integrated Fire and Support System (MIFASS) until—

(A) a single program is selected for both the Army and the Marine Corps; or

(B) the Secretary of Defense certifies to Congress, before December 16, 1986, that continuation of both programs is operationally sound and less costly to the United States than the development of a common system for use by both the Army and Marine Corps.

(2) Of the funds referred to in paragraph (1), not more than $3,000,000 may be obligated without regard to the limitation in such paragraph for operational testing of the Marine Integrated Fire and Support System. 100 STAT. 3840

(b) ADVANCED TACTICAL AIRCRAFT AND ADVANCED TECHNOLOGY FIGHTER.—(1) The Secretary of the Navy may not obligate funds for the full-scale development of the Navy Advanced Tactical Aircraft program until the Secretary of Defense certifies to Congress that the design selected for the aircraft will accommodate essential Air Force-peculiar requirements for such aircraft.

(2) The Secretary of the Air Force may not obligate funds for the full-scale development of the Air Force Advanced Technology Fighter program until the Secretary of Defense certifies to Congress that the design selected for the aircraft will accommodate essential Navy-peculiar requirements for such aircraft.

(3) After September 30, 1987, funds appropriated to the Department of Defense may not be obligated for the Advanced Tactical Aircraft program of the Navy or the Advanced Technology Fighter program of the Air Force unless the Secretary of Defense certifies to Congress that—

(A) the requirements for both such programs have been finalized; and

(B) such requirements, as finalized, have been agreed to by the Secretary of the Navy, the Secretary of the Air Force, and the Office of the Secretary of Defense.

SEC. 207. ADVANCED ANTI-ARMOR WEAPON SYSTEM

(a) FEASIBILITY DEMONSTRATION OF CANDIDATE SYSTEMS.—Of the funds authorized in section 201 for the Army, $48,735,000 is authorized to be appropriated for the Advanced Anti-Armor Weapon System Medium (AAWS-M) program, but funds may be obligated for such program only if—

(1) the Secretary of the Army begins a prototype feasibility demonstration of not more than three candidate systems for such program, including a true fire-and-forget candidate;

(2) the feasibility demonstration for such a system is capable of being completed within 27 months after the date of the enactment of this Act;

(3) the official responsible for test planning and evaluation for the feasibility demonstration is the Director of Test and Evaluation of the Department of Defense; and

(4) the actual conduct of the feasibility demonstration is carried out jointly by the Army and the Marine Corps.

(b) REQUIREMENT FOR SATISFACTION OF SERVICE ANTI-ARMOR REQUIREMENTS.—The Secretary of Defense may not authorize the initiation of full-scale engineering development of the winning AAWS-M candidate until—

(1) the Secretary of the Army certifies to the Committees on Armed Services and Appropriations of the Senate and House of Representatives that the winning system meets the anti-armor requirement of the Army; and

(2) the Secretary of the Navy, upon recommendation of the Commandant of the Marine Corps, certifies to such Committees that the winning system meets the anti-armor requirement of the Marine Corps.

SEC. 208. ELECTRONIC WARFARE MASTER PLAN

(a) ELECTRONIC WARFARE CONSOLIDATION.—The Under Secretary of Defense for Acquisition shall prepare an Electronic Warfare Master Plan providing policy guidance in electronic warfare to the Secretaries of the military departments. The master plan shall be 100 STAT. 3841 coordinated with the policy and fiscal guidance of the Secretary of Defense. The Under Secretary shall submit the master plan to the Committees on Armed Services of the Senate and House of Representatives.

Research and development.

(b) Obligation Limitation.—Not more than 80 percent of the amount appropriated to each of the military departments for fiscal year 1987 for research, development, test, and evaluation of electronic warfare systems may be obligated until the Under Secretary of Defense for Acquisition transmits to the committees the Electronic Warfare Master Plan prepared under subsection (a).

(c) Amounts Authorized.—Of the amounts appropriated to the Department of Defense for research, development, test, and evaluation for fiscal year 1987, not less than $100,000,000 shall be available to the Under Secretary of Defense for Acquisition for research, development, test, and evaluation of electronic warfare systems.

SEC. 209. LIMITATION ON TESTING ELECTROMAGNETIC PULSE

During fiscal year 1987, the Secretary of the Navy may not carry out a demonstration test of an electromagnetic pulse in the Chesapeake Bay, Maryland and Virginia, in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships.

Part B—Strategic Defense Initiative

SEC. 211. FISCAL YEAR 1987 FUNDING LEVEL FOR STRATEGIC DEFENSE INITIATIVE

Of the amount authorized in section 201 for research, development, test, and evaluation for the Defense Agencies, not more than $3,213,000,000 is available for the Strategic Defense Initiative (SDI) Program.

SEC. 212. JOINT DEVELOPMENT OF ANTITACTICAL BALLISTIC MISSILE SYSTEM

Of the funds available for the Strategic Defense Initiative under section 211, not more than $50,000,000 shall be available for the joint development, on a matching fund basis, of an anti-tactical ballistic missile system for deployment with NATO allies and other countries that the United States has invited to participate in the Strategic Defense Initiative Program.

10 USC 2431 note.

SEC. 213. LIMITATION ON ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER FOR THE STRATEGIC DEFENSE INITIATIVE PROGRAM

(a) Limitation.—The Secretary of Defense may not obligate or expend any funds for the purpose of operating a Federally funded research and development center that is established for the support of the Strategic Defense Initiative Program after the date of the enactment of this Act unless—

Report.

(1) the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report with respect to such proposed center that provides the information described in subsection (b); and

(2) funds are specifically authorized to be appropriated for such purpose after the date of the enactment of this Act in an Act other than—

(A) an appropriations Act; or

(B) a continuing resolution.

(b) Content of Report.—A report submitted under subsection (a)(1) with respect to a proposed center shall include a discussion of—

(1) the ability of existing Federally funded research and development centers, Federal research laboratories, and private contractors to perform the objectives of technological integration and evaluation required by the Strategic Defense Initiative Organization;

(2) the comparative cost of having the proposed work performed by—

(A) the Strategic Defense Initiative Organization;

(B) Federally funded research and development centers in existence on the date of the enactment of this Act;

(C) by Federal research laboratories;

(D) by private contractors; or

(E) by such center;

(3) whether such center is intended to be—

(A) primarily a study and analysis center; or

(B) primarily a system engineering/system integration center;

(4) whether such center will be required or authorized to enter into contracts under which research projects would be performed by other Federally funded research and development centers, Federal research laboratories, or private contractors; Contracts.

(5) whether the contract to operate such center will be awarded on a competitive basis;

(6) whether proposals with respect to the operation of such center—

(A) will be considered by the appropriate Defense Agency; and

(B) will be subjected to review by persons to be elected by the National Academy of Sciences;

(7) whether such center will be designed to prevent even the possibility of an appearance of a conflict of interest—

(A) by prohibiting any officer, employee, or member of the governing body of such center from holding any position with—

(i) the Strategic Defense Initiative Organization; or

(ii) a private contractor that has a substantial interest in the development of the Strategic Defense Initiative; and

(B) by prohibiting more than one-half of the members of the governing body of the proposed Federally Funded Research Center from simultaneously holding any position with the Strategic Defense Initiative Advisory Committee or any similar body which provides technological, scientific, or strategic advice to the Department of Defense about the Strategic Defense Initiative;

(8) whether other actions will be taken to avoid possible conflict of interest situations within such center;

(9) the role of the Department of Defense in—

(A) the selection of the staff of such center; and

(B) the internal organization of such center; and

(10) whether a prescribed minimum percentage of the annual budget of such center will be set aside for research to be conducted independently of the Department of Defense.

100 STAT. 3843

(c) COMPTROLLER GENERAL REPORT.—The Comptroller General of the United States shall also submit a report to Congress providing an analysis of the items in subsection (b) as appropriate.

SEC. 214. REPORT ON PROJECTED COSTS OF SDI PROGRAM

Section 223(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 613), is amended by adding at the end the following: "The Secretary shall include in such report the following information:

"(1) The cost goals or cost objectives for the production and deployment of a Strategic Defense Initiative System determined on the basis of capabilities expected to be developed in the future and the cost goals or cost objectives for the individual components of such system (determined on the basis of capabilities expected to be developed in the future).

"(2) The estimated cost for the production and deployment of the Strategic Defense Initiative System referred to in paragraph (1) and determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report and the estimated cost for the production and deployment of the individual components of such system (determined on the basis of prices in effect and capabilities in existence at the time of the preparation of the report).".

SEC. 215. REPORT ON STRATEGIC DEFENSE INITIATIVE DEPLOYMENT SCHEDULE

(a) Report Requirement.—The Secretary of Defense shall submit to Congress a report detailing what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(1) defending United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(2) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority and other valuable military assets;

(3) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits; and

(4) providing early warning and attack assessment information and the necessary survivable command, control, and communication to defend against possible Soviet conventional or strategic attacks.

(b) Additional Material To Be Included.—The report shall—

(1) identify any other significant near-term military mission that the application of Strategic Defense Initiative technologies might help accomplish;

(2) list what specific program elements of the Strategic Defense Initiative are pertinent to these applications;

(3) estimate initial operating capability dates for the systems needed to accomplish these missions;

(4) estimate the level of funding necessary for each program to reach these operating capability dates; and

(5) estimate the survivability and cost effectiveness at the margin of these systems against current and projected Soviet threats.

(c) Deadline for Report.—The report under subsection (a) shall be submitted not later than March 15, 1987.

SEC. 216. EFFECT OF STRATEGIC DEFENSE INITIATIVE ON COMPLIANCE WITH THE ANTI-BALLISTIC MISSILE TREATY

(a) Findings.—The Congress makes the following findings:

(1) The President's Commission on Strategic Forces declared in its report to the President, dated March 21, 1984, that "One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972".

23 UST 3435.

(2) The Secretary of State has stated that the "ABM Treaty requires consultations, and the President has explicitly recognized that any ABM-related deployments arising from research into ballistic missile defenses would be a matter for consultations and negotiations between the Parties".

(3) The Secretary of State declared on October 14, 1985, that "our research program has been structured and, as the President has reaffirmed, will continue to be conducted in accordance with a restrictive interpretation of the treaty's obligations".

(4) The President has determined that the Krasnoyarsk radar is a violation of the ABM Treaty.

(5) The Krasnoyarsk radar therefore erodes the integrity of the ABM Treaty and is a matter of serious concern.

(b) Congressional Declarations.—The Congress therefore declares—

(1) that it fully supports the declared policy of the President that a principal objective of the United States in negotiations with the Soviet Union on nuclear and space arms is to reverse the erosion of the Treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed on May 26, 1972 (commonly referred to as the "ABM Treaty"); and

Union of Soviet Socialist Republics.

(2) that action by the Congress in approving funds in this Act for research on the Strategic Defense Initiative—

(A) does not express or imply an intention on the part of Congress that the United States should abrogate, violate, or otherwise erode such treaty; and

(B) does not express or imply any determination or commitment on the part of Congress that the United States develop, test, or deploy ballistic missile strategic defense weaponry that would contravene such treaty.

SEC. 217. REPORT ON THE ANTI-BALLISTIC MISSILE TREATY

(a) Report on Less Restrictive Interpretation.—The Secretary of Defense shall submit to Congress a report concerning the effect of the less restrictive interpretation of the Anti-Ballistic Missile Treaty on the Strategic Defense Initiative program.

(b) Matters To Be Included.—The report shall include the following:

(1) An analysis of the ramifications of the less restrictive interpretation on the development under the Strategic Defense Initiative Program, of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets, based on "other physical principles". This analysis should compare research and development programs pursued under both the restrictive and less restrictive interpretations of such treaty, including a comparative analysis of—

(A) the overall cost of the research and development programs,

(B) the schedule of the research and development programs, and

(C) the level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early 1990's.

(2) A list of options under the less restrictive interpretation of such treaty that meet one or more of the following objectives:

(A) Reduction of the overall development cost.

(B) Advancement of the schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) Deadline for Report.—The report under subsection (a) shall be submitted not later than February 1, 1987.

Part C—Balanced Technology Initiative

SEC. 221. CONVENTIONAL DEFENSE INITIATIVE

(a) In General.—In this Act, Congress commences a program of Conventional Defense Initiatives to provide an emphasis on improving the conventional weapons of the Armed Forces (and the testing of such weapons) and to enhance cooperation with the other member nations of the North Atlantic Treaty Organization. The initiative is intended to improve the fighting power and survivability of the combat forces of the United States and to raise the threshold for nuclear war.

(b) Amount Authorized.—Of the amount authorized in section 201 for the Army, Navy, and Air Force, $162,323,000 is available only for the Conventional Defense Initiatives program.

SEC. 222. BALANCED TECHNOLOGY INITIATIVE

(a) Earmarking for Certain Conventional Programs.—(1) Of the amount authorized in section 201 for Defense Agencies, not less than $300,000,000 shall be used to expand research on innovative concepts and methods of enhancing conventional defense capabilities. Such research and development efforts shall emphasize the following:

(A) Armor/anti-armor initiatives.

(B) Defenses against armed helicopters.

(C) Hypervelocity missiles for ground combat use.

(D) Defense against anti-ship missiles, including those with "stealth" characteristics.

(E) "Smart" mines for both land and ocean warfare.

(F) Lightweight, air transportable vehicles with anti-armor capabilities for rapid transport to remote areas.

(G) Improved conventional anti-submarine warfare munitions.

(H) "Smart" standoff munitions and submunitions for aircraft delivery outside of lethal air defense ranges.

100 STAT. 3846

(2) The amount specified in paragraph (1) is in addition to the amount specified for the Strategic Defense Initiative in section 211 and for the Conventional Defense Initiative Program under section 221 and is made available subject to the following conditions:

(A) That the Director of Defense Research and Engineering apportion the funds among the research, development, test, and evaluation accounts of the Army, the Navy, the Air Force, and the Defense Agencies on a merit basis, taking into consideration ongoing technology research and exploitation opportunities.

(B) That no portion of any undistributed reduction be applied against the funds appropriated for purposes of paragraph (1) and that no portion of any undistributed reduction be applied against any program, project, or activity for which additional funds are provided under subparagraph (A).

(C) That no portion of the funds provided for in paragraph (1) be applied to any program, project, or activity in support of the Strategic Defense Initiative.

(b) Funds for Conventional Defense Technology Base.—Of the amount authorized in section 201 for Defense Agencies, not less than $153,000,000 shall be applied to restoration of the conventional defense technology base. Such amount is in addition to the amounts specified in subsection (a) and in sections 211 and 221 and is made available subject to the following conditions:

Research and development.

(1) That the Director of Defense Research and Engineering apportion the funds among the research, development, test, and evaluation accounts of the Army, the Navy, the Air Force, and Defense Agencies on a merit basis, either to augment ongoing but underfunded basic and exploratory research or to establish new basic or exploratory research programs.

(2) That no portion of such funds be applied to any program, project, or activity in support of the Strategic Defense Initiative.

(3) That no portion of any undistributed reduction made in any research, development, test, and evaluation account be applied against the technology base activities of any military department or Defense Agency in a greater proportion than the share of that department's or Agency's technology base as a proportion of the total research, development, test, and evaluation funds made available to that department or Agency for fiscal year 1987.

(4) That no portion of any undistributed reduction be applied against any program, project, or activity which has received additional funds under this subsection.

(c) Report.—Within 90 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the implementation of this section. Such report shall include—

(1) the allocation by project of the amounts specified in subsections (a)(1) and (b);

(2) the identification of other ongoing research and development projects that should be included in a balanced defense technology effort to improve conventional defenses;

(3) the identification of specific research projects which were funded in fiscal years before fiscal year 1987 by the Strategic Defense Initiative Organization which could significantly enhance the conventional defense capabilities of the United States (or command, control, communications, and intelligence capabilities associated with conventional defense capabilities) and which will no longer be funded by such office;

(4) for each program, project, or activity for which funds have been allocated under subsection (a)(1), or which is identified under clause (2) or (3) of this subsection, a five-year funding description sufficient to maintain significant progress in such program, project, or activity, including the major milestones and projected dates of accomplishment for such program, project, or activity; and

(5) the funding that would be required for each of the next five fiscal years to restore by the end of fiscal year 1992 the defense technology base to the proportion of total research, development, test, and evaluation that such base was, on average, during the period from 1971 through 1980, and the effect of implementing that funding on the research, development, test, and evaluation defense programs of the United States.

(d) Restriction on Obligation of Funds.—None of the funds provided under subsections (a)(1) and (b) may be obligated until—

(1) the report required by subsection (c) is submitted; and

(2) a period of 30 days has elapsed following the date on which the report is received by the committees.

Part D—Miscellaneous

SEC. 231. LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS

Union of Soviet Socialist Republics.
10 USC 2431 note.

(a) ASAT Testing Moratorium.—The Secretary of Defense may not carry out a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) Expiration.—The prohibition in subsection (a) expires on October 1, 1987.

SEC. 232. ICBM MODERNIZATION

(a) Report by the Secretary of Defense on ICBM Modernization.—At the same time the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives the report on the intercontinental ballistic missile (ICBM) modernization program required by section 1231(c) of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 614), the Secretary shall submit to such Committees a statement containing the basis of the Secretary's recommendation to the President, and any decisions of the President, regarding the following matters:

97 Stat. 693.

(1) The configuration of a small intercontinental ballistic missile in terms of weight, number of warheads, and production schedule.

(2) The selected options for more survivable follow-on basing modes and basing locations for MX (Peacekeeper) missiles.

(3) The advisability of going forward with one or more selected basing modes to a full scale engineering development decision.

(b) Limitation on Deployment of Peacekeeper (MX) Missile; Development of Small ICBM.—The limitations contained in sections 206 and 1231 of the Department of Defense Authorization Act, 1984 (Public Law 98–94; 97 Stat. 614), on the deployment of the MX

97 Stat. 624, 693.

100 STAT. 3848 missile and the development of a small intercontinental ballistic missile shall cease to apply when full-scale engineering development of a small mobile intercontinental ballistic missile begins.

(c) LIMITATIONS ON FUNDING.—Of the amounts appropriated for fiscal year 1987 for the ICBM Modernization Program—

(1) $120,000,000 shall be available for research and development on follow-on basing options;

(2) $290,000,000 shall be available for research and development of the Peacekeeper (MX) missile; and

(3) $1,200,000,000 shall be available for research and development of a small mobile intercontinental ballistic missile and basing for such missile.

SEC. 233. RESTRICTION ON USE OF RESEARCH AND DEVELOPMENT FUNDS FOR GRANTS TO EDUCATIONAL INSTITUTIONS

The Secretary of Defense may not make a grant or contribution to any educational institution from funds appropriated to the Department of Defense for fiscal year 1987 for research, development, test, and evaluation unless the Secretary determines—

(1) that the purpose of the grant or contribution has a potential relationship to a military function or operation; and

(2) that the grant or contribution is based on the technical merit of the proposed research that best satisfies the requirements of the Department of Defense.

10 USC 2364 note.

SEC. 234. COORDINATION OF RESEARCH ACTIVITIES OF DEPARTMENT OF DEFENSE

(a) PURPOSE.—The purpose of this section is to strengthen coordination among Department of Defense research facilities and other organizations in the Department of Defense.

(b) FINDINGS.—The Congress finds that centralized coordination of the collection and dissemination of technological data among research facilities and other organizations within the Department of Defense is necessary—

(1) to ensure that personnel of the Department are currently informed about emerging technology for defense systems; and

(2) to avoid unnecessary and costly duplication of research staffs and projects.

(c) IMPROVED COORDINATION AND COMMUNICATION OF DEFENSE RESEARCH ACTIVITIES.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2364.

"§ 2364. Coordination and communication of Defense research activities

"(a) COORDINATION OF DEPARTMENT OF DEFENSE TECHNOLOGICAL DATA.—The Secretary of Defense shall promote, monitor, and evaluate programs for the communication and exchange of technological data—

"(1) among the Defense research facilities, combatant commands, and other organizations that are involved in developing for the Department of Defense the technological requirements for new items for use by combat forces; and

"(2) among Defense research facilities and other offices, agencies, and bureaus in the Department that are engaged in related technological matters.

"(b) FUNCTIONS OF DEFENSE RESEARCH FACILITIES.—The Secretary 100 STAT. 3849 of Defense shall ensure, to the maximum extent practicable—

"(1) that Defense research facilities are assigned broad mission requirements rather than specific hardware needs;

"(2) that appropriate personnel of such facilities are assigned to serve as consultants on component and support system standardization;

"(3) that the managers of such facilities have broad latitude to choose research and development projects;

"(4) that technology position papers prepared by Defense research facilities are readily available to all combatant commands and to contractors who submit bids or proposals for Department of Defense contracts; and

Contracts.

"(5) that, in order to promote increased consideration of technological issues early in the development process, any position paper prepared by a Defense research facility on a technological issue relating to a major weapon system, and any technological assessment made by such facility in the case of such component, is made a part of the records considered for the purpose of making milestone O, I, and II decisions.

"(c) Definitions.—In this section:

"(1) The term 'Defense research facility' means a Department of Defense facility which performs or contracts for the performance of—

"(A) basic research; or

"(B) applied research known as exploratory development.

"(2) The term 'milestone O decision' means a decision made within the Department of Defense that there is a mission need for a new major weapon system and that research and development is to begin to meet such need.

"(3) The term 'milestone I decision' means [a]/[the] selection by an appropriate official of the Department of Defense of a new major weapon system concept and a program for demonstration and validation of such concept.

"(4) The term 'milestone II decision' means approval by an appropriate official of the Department of Defense for the full-scale development of a new major weapon system.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2364. Coordination and communication of Defense research activities.".

SEC. 235. COOPERATIVE MEDICAL RESEARCH WITH VETERANS' ADMINISTRATION

(a) Funding.—Of the amount authorized in section 201 for the Defense Agencies, $20,000,000 is available only for cooperative medical research to be administered by the Secretary of Defense and the Administrator of Veterans' Affairs.

(b) Deadline.—Not later than 30 days after the enactment of a law making appropriations for the Department of Defense for fiscal year 1987, the Secretary of Defense shall make available to the Administrator of Veterans' Affairs the amount referred to in subsection (a).

100 STAT. 3850

TITLE III—OPERATION AND MAINTENANCE

Part A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $20,025,891,000.
For the Navy, $23,164,784,000.
For the Marine Corps, $1,791,200,000.
For the Air Force, $18,894,186,000.
For the Defense Agencies, $7,979,380,000.
For the Army Reserve, $770,300,000.

For the Naval Reserve, $887,400,000.

For the Marine Corps Reserve, $64,200,000.

For the Air Force Reserve, $922,100,000.

For the Army National Guard, $1,734,603,000.

For the Air National Guard, $1,790,400,000.

For the National Board for the Promotion of Rifle Practice, $4,316,000.

For Defense Claims, $144,400,000.

For the Court of Military Appeals, $3,200,000.

For Environmental Restoration, Defense, $385,900,000.

(b) ADDITIONAL AUTHORIZATION FOR ARMY NATIONAL GUARD.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated such sums as may be necessary for the Army National Guard for—

(1) armory operating costs;

(2) modification or repair of work space for fulltime National Guard personnel; and

(3) partial Federal funding for major repair and renovation of National Guard facilities.

(c) AUTHORIZATION UPON APPROPRIATION FOR HIGH PRIORITY PROGRAMS.—Any amounts appropriated in excess of the amounts authorized in subsection (a) for high priority readiness programs are hereby authorized.

SEC. 302. WORKING CAPITAL FUNDS

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1987 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $230,138,000.

For the Navy Stock Fund, $379,570,000.

For the Marine Corps Stock Fund, $31,233,000.

For the Air Force Stock Fund, $200,410,000.

For the Defense Stock Fund, $66,949,000.

(b) AUTHORIZATION UPON APPROPRIATION FOR HIGH PRIORITY PROGRAMS.—Any amounts appropriated in excess of the amounts authorized in subsection (a) for high priority readiness programs are hereby authorized.

100 STAT. 3851

SEC. 303. AUTHORIZATION OF APPROPRIATIONS FOR ASSISTANCE TO PAN AMERICAN GAMES

Funds are hereby authorized to be appropriated for fiscal year 1987 for assistance to the Tenth International Pan American Games in accordance with section 304 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 583), in the amount of $15,000,000.

99 Stat. 616.

SEC. 304. TRANSPORTATION OF LIVESTOCK FEED

The Secretary of Defense may authorize the use during 1986 of National Guard equipment and personnel for transportation (including airlift) of livestock feed to drought-stricken areas of the United States.

SEC. 305. AUTHORITY FOR PAYMENTS TO NASA FOR SPACE SHUTTLE SERVICES

(a) AUTHORITY.—The Secretary of Defense may make payments during fiscal year 1987 to the National Aeronautics and Space Administration for space shuttle services in advance of the receipt of such services. Any such payments—

(1) may be made only from funds appropriated to the Air Force for operation and maintenance for fiscal year 1987 and only to the extent provided in appropriations Acts;

(2) may not be made until 30 days after the date on which the report required in subsection (b) is received by the Congress; and

(3) may not exceed $268,800,000.

(b) REPORT.—Not later than December 31, 1986, the Secretary of Defense shall submit to the appropriate committees of the Congress a report containing a ten-year plan setting forth the schedule for planned payments by the Department of Defense to the National Aeronautics and Space Administration for space shuttle services and the schedule for the provision of such services.

PART B—PROGRAM CHANGES AND PERMANENT LAW CHANGES

SEC. 311. CONTRACT PERSONNEL TO BE INCLUDED IN BUDGET JUSTIFICATION

Section 2203 of title 10, United States Code, is amended by adding at the end the following new sentences: "The Secretary of Defense shall provide that the budget justification documents for such budget include information on the number of employees of contractors estimated to be working on contracts of the Department of Defense during the fiscal year for which the budget is submitted. Such information shall be set forth in terms of employee-years or such other measure as will be uniform and readily comparable with civilian personnel of the Department of Defense.".

SEC. 312. PROCUREMENT OF CERTAIN BAKERY AND DAIRY PRODUCTS OUTSIDE THE UNITED STATES

(a) PROCUREMENT OF BAKERY AND DAIRY PRODUCTS.—Chapter 143 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2422. Bakery and dairy products: procurement outside the United States

10 USC 2422.

"(a) The Secretary of Defense may authorize any element of the Department of Defense that procures bakery and dairy products for use by the armed forces outside the United States to procure any products described in subsection (b) through the use of procedures other than competitive procedures.

"(b) The products referred to in subsection (a) are bakery or dairy products produced by the Army and Air Force Exchange Service in a facility outside the United States that began operating before July 1, 1986.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2422. Bakery and dairy products: procurement outside the United States.".

SEC. 313. FUNCTIONS OF MILITARY COMMISSARIES; PURCHASE OF ALCOHOLIC BEVERAGES BY NONAPPROPRIATED FUND INSTRUMENTALITIES

(a) IN GENERAL.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new sections:

"§ 2486. Commissary stores: merchandise that may be sold; uniform surcharges

10 USC 2486.

"(a) Commissary stores are similar to commercial grocery stores and may sell merchandise similar to that sold in commercial grocery stores.

"(b) Merchandise sold in commissary stores may include items in the following categories:

"(1) Health and beauty aids.

"(2) Meat and poultry.

"(3) Fish and seafood.

"(4) Produce.

"(5) Food and non-food grocery items.

"(6) Bakery goods.

"(7) Dairy products.

"(8) Tobacco products.

"(9) Delicatessen items.

"(10) Frozen foods.

"(11) Other categories designated in regulations prescribed by the Secretary of a military department and approved by the Secretary of Defense.

"(c) An adjustment of or surcharge on sales prices in commissary stores under section 2484(b) or 2685(a) of this title or for any other purpose shall be applied as a uniform percentage of the sales price of all merchandise sold in commissary stores.

10 USC 2487.

"§ 2487. Commissary stores: limitations on release of sales information

"(a) In order to protect commercially valuable information, the Secretary of a military department, except as provided in subsection (b), may not release to the public those portions of computer data generated by electronic scanners used in military commissaries, and those portions of reports generated by such scanners, that contain the following information:

100 STAT. 3853

"(1) The unit prices of items sold.

"(2) The number of units of items sold.

"(b) Information subject to subsection (a) may be released under a written agreement. Any such agreement shall require payment for such information and shall specify the amount of such payment.

"(c) Amounts received by the United States under an agreement described in subsection (b) with respect to a commissary shall be deposited in the Commissary Trust Revolving Fund of the military department under which the commissary is operated.

10 USC 2488.

"§ 2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages

"(a) The Secretary of Defense shall provide that—

"(1) covered alcoholic beverage purchases made for resale on a military installation located in the United States shall be made from the most competitive source, price and other factors considered, except that

State and local governments.

"(2) in the case of malt beverages and wine purchased for resale on a military installation located in the contiguous States, such purchases shall be made from, and delivery shall be accepted from, a source within the State in which the military installation concerned is located.

"(b) If a military installation located in the contiguous States is located in more than one State, a source of supply in any State in which the installation is located shall be considered for the purposes of subsection (a)(2) to be a source within the State in which the installation is located.

"(c) In this section:

"(1) The term 'covered alcoholic beverage purchases' means purchases of alcoholic beverages by a nonappropriated fund instrumentality of the Department of Defense with nonappropriated funds.

"(2) The term 'State' includes the District of Columbia.".

(b) Exemption From Written Notice Requirements.—Section 2305(b) of title 10, United States Code, is amended by adding at the end of paragraph (4) the following new subparagraph:

"(E) Subparagraph (D) does not apply with respect to the award of a contract for the acquisition of perishable subsistence items.".

(c) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2486. Commissary stores: merchandise that may be sold; uniform surcharges.
"2487. Commissary stores: limitation on release of sales information.
"2488. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.".

SEC. 314. AUTHORITY FOR SECRETARY OF DEFENSE TO ACCEPT GIFTS FOR THE DEFENSE DEPENDENTS' EDUCATION SYSTEM

(a) IN GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2605. Acceptance of gifts for defense dependents' education system

10 USC 2605.

"(a) The Secretary of Defense may accept, hold, administer, and spend any gift (including any gift of an interest in real property) made on the condition that it be used in connection with the operation or administration of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.). The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

100 STAT. 3854

"(b) There is established in the Treasury a fund to be known as the 'Department of Defense Dependents' Education Gift Fund'. Gifts of money, and the proceeds of the sale of property, received under subsection (a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of the defense dependent's education system, subject to the terms of the gift.

"(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

Securities.

"(A) retain money, securities, and the proceeds of the sale of securities, in the Department of Defense Dependents' Education Gift Fund; and

"(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

"(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

"(e) In this section, the term 'gift' includes a devise of real property or a bequest of personal property.

"(f) The Secretary of Defense shall prescribe regulations to carry out this section.".

Regulations.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2605. Acceptance of gifts for defense dependents' education system.".

SEC. 315. RENOVATION OF FACILITIES

(a) IN GENERAL.—Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2810. Renovation of facilities

10 USC 2810.

"(a) The Secretary concerned may carry out renovation projects that combine maintenance, repair, and minor construction projects for an entire single-purpose facility, or one or more functional areas of a multipurpose facility, using funds available for operations and maintenance.

"(b) The amount obligated on such a renovation project may not exceed the maximum amount specified by law for a minor construction project under section 2805 of this title.

"(c) Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2810. Renovation of facilities.".

10 USC 2304 note.

SEC. 316. PROHIBITION OF PURCHASE OF ANGOLAN PETROLEUM PRODUCTS FROM COMPANIES PRODUCING OIL IN ANGOLA

Contracts.

(a) GENERAL RULE.—The Secretary of Defense may not enter into a contract with a company for the purchase of petroleum products which originated in Angola if the company (or a subsidiary or partnership of the company) is engaged in the production of petroleum products in Angola.

(b) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) if the Secretary determines that such action is in the best interest of the United States.

(c) PETROLEUM PRODUCT DEFINED.—For purposes of this section, the term "petroleum product" means—

"(1) natural or synthetic crude;

"(2) blends of natural or synthetic crude; and

"(3) products refined or derived from natural or synthetic crude or from such blends.

(d) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

SEC. 317. PROHIBITION OF CONTRACTS FOR THE PERFORMANCE OF CERTAIN ARMY AMMUNITION ACTIVITIES

Indiana.
Oklahoma.

(a) PROHIBITION OF CONTRACTING.—The Secretary of Defense and the Secretary of the Army may not enter into a contract for the performance by contractor personnel of functions performed by employees of the Department of Defense at the Crane Army Ammunition Activity, Crane, Indiana, or the McAlester Army Ammunition Plant, McAlester, Oklahoma.

(b) EXCEPTION.—The prohibition in subsection (a) does not apply to a contract (or the renewal of a contract) for the performance of a function that on the date of the enactment of this Act is under contract for performance by contractor personnel.

SEC. 318. NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

(a) PERSONNEL SERVICES.—Section 4308 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) The Secretary may provide personnel services (in addition to pay and non-travel related allowances for members of the armed forces) in carrying out the authority of the Secretary under this section and sections 4310 through 4312 of this title.".

(b) ALLOWANCES FOR COMPETITORS AT NATIONAL MATCHES.—Section 4313 of such title is amended—

(1) by striking out "draw not more than" in subsection (a) and all that follows through the end of the subsection and inserting in lieu thereof "be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe."; and

(2) by striking out "of five cents a mile" in subsection (b) and inserting in lieu thereof "in such amount as the Secretary of the Army shall prescribe".

SEC. 319. PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD WITH CIVIL AVIATION

Texas.

The Secretary of the Army may not enter into an agreement to allow joint use of the Robert Gray Army Airfield at Fort Hood, Texas, with civil aviation.

SEC. 320. REPORT ON PROPOSED REGULATIONS RELATING TO MOVEMENT OF HOUSEHOLD GOODS AND CARGO

100 STAT. 3856

(a) REPORT REQUIREMENT.—The regulations of the Military Traffic Management Command described in subsection (b) may not become effective until—

(1) the Secretary of the Army submits to Congress a report with respect to such regulations that includes a discussion of—

(A) the cost savings expected as a result of implementation of such regulations; and

(B) the increased quality of services expected as a result of such implementation; and

(2) 90 days of continuous session of Congress elapse after the report is received.

(b) DESCRIPTION OF REGULATIONS.—The regulations referred to in subsection (a) are the regulations contained in the International Through Government Bill of Lading Rate Solicitation, volume 54, that concern—

(1) elimination of the so-called "me-too" rate filing cycle;

(2) elimination of the rate cancellation cycles;

(3) mandatory use of Government-owned containers; and

(4) changes in storage-in-transit charges.

(c) COMPUTATION OF TIME PERIOD.—For purposes of subsection (a)(2)—

(1) the continuity of a session of Congress is broken only by an adjournment of the Congress sine die; and

(2) days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 90-day period.

PART C—HUMANITARIAN AND OTHER ASSISTANCE

SEC. 331. EXTENSION OF AUTHORIZATION FOR HUMANITARIAN ASSISTANCE

(a) TRANSPORTATION, ADMINISTRATION, AND DISTRIBUTION OF HUMANITARIAN RELIEF SUPPLIES TO AFGHAN REFUGEES.—Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617), is amended—

(1) by inserting "(1)" before "There" in subsection (a);

(2) by inserting "and for fiscal year 1987 the sum of $10,000,000" after "sum of $10,000,000" in subsection (a);

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1189), for operation and maintenance for the Air Force, $7,000,000 shall remain available for obligation until September 30, 1987, for the purpose described in paragraph (1) (including providing transportation of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code). Such funds shall be in addition to funds appropriated pursuant to the authorization in paragraph (1)."; and

(4) by adding at the end the following new subsections:

"(d) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense is authorized to transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in this section for fiscal year 1987 to provide for (1) paying administrative costs of providing the transportation described in subsection (a), and (2) providing for the acquisition of transportation assets for the distribution of supplies outside the United States to accomplish the purposes of this section.

100 STAT. 3857

"(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in subsection (a) shall remain available until expended, to the extent provided in appropriation Acts.".

(b) Reports.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives two reports, one of which shall be submitted not later than 60 days after the date of the enactment of this Act and the other not later than June 1, 1987. Each such report shall contain (as of the date on which the report is submitted) the following information:

(1) The total amount of funds obligated for humanitarian relief under section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617) (as amended by subsection (a)).

(2) The number of scheduled and completed flights for purposes of providing humanitarian relief under section 305 of such Act.

(3) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

SEC. 332. EXTENSION OF AUTHORITY OF SECRETARY OF DEFENSE TO TRANSPORT HUMANITARIAN RELIEF SUPPLIES TO CERTAIN COUNTRIES

Section 1540(a) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2637), is amended by striking out "fiscal years 1985 and 1986" and inserting in lieu thereof "fiscal year 1987".

SEC. 333. HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH A MILITARY OPERATION

(a) In General.—(1) Part I of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 20—HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS

"Sec.

"401. Armed forces participation in humanitarian and civic assistance activities.
"402. Approval of the Secretary of State.
"403. Payment of expenses.
"404. Annual report to Congress.
"405. Definition of humanitarian and civic assistance.
"406. Expenditure limitation.

10 USC 401.

"§ 401. Armed forces participation in humanitarian and civic assistance activities

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

100 STAT. 3858

Defense and national security.

"(1) the security interests of both the United States and the country in which the activities are to be carried out; and

"(2) the specific operational readiness skills of the members of the armed forces who participate in the activities.

"(b) Humanitarian and civic assistance activities carried out under this chapter shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

"(c) Humanitarian and civic assistance may not be provided under this chapter (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

"§ 402. Approval of the Secretary of State 10 USC 402.

"Humanitarian and civic assistance may not be provided under this chapter to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

"§ 403. Payment of expenses 10 USC 403.

"(a) Expenses incurred as a direct result of providing humanitarian and civic assistance under this chapter to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

"(b) Nothing in this chapter may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to subsection (a).

"§ 404. Annual report to Congress 10 USC 404.

"The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this chapter during the preceding fiscal year. The Secretary shall include in each such report—

"(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

"(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

"(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

"§ 405. Definition of humanitarian and civic assistance 10 USC 405.

"In this chapter, the term 'humanitarian and civic assistance' means—

"(1) medical, dental, and veterinary care provided in rural areas of a country;

"(2) construction of rudimentary surface transportation systems;

"(3) well drilling and construction of basic sanitation facilities; and

"(4) rudimentary construction and repair of public facilities. 100 STAT. 3859

"§ 406. Expenditure limitation 10 USC 406.

"Not more than $16,400,000 may be obligated or expended for the purposes of this chapter during fiscal years 1987 through 1991.".

(2) The tables of chapters at the beginning of subtitle A of such title and at the beginning of part I of such subtitle are each amended by adding at the end the following new item:

"20. Humanitarian and Civic Assistance Provided in Conjunction With Military Operations .... 401".

(b) EXPENDITURE LIMITATION FOR FISCAL YEAR 1987.—Not more than $3,000,000 may be obligated or expended for the purposes of chapter 20 of title 10, United States Code (as added by subsection (a)), during fiscal year 1987.

TITLE IV—PERSONNEL AUTHORIZATIONS AND RELATED MATTERS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized strengths for active-duty personnel as of September 30, 1987, as follows:

(1) The Army, 780,800.
(2) The Navy, 587,000.
(3) The Marine Corps, 199,600.
(4) The Air Force, 606,850.

SEC. 402. QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

(a) PERMANENT REQUIREMENT FOR MINIMUM PERCENTAGE OF HIGH-SCHOOL GRADUATES.—Chapter 333 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 3262.

"§ 3262. Army: percentage of high-school graduates

"Of the males with no prior military service who are enlisted or inducted into the Army during any fiscal year, the number who are not high-school graduates may not exceed, as of the end of the fiscal year, 35 percent of all such persons.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3262. Army: percentage of high-school graduates.".

10 USC 521 note.

SEC. 403. STRENGTH OF ACTIVE DUTY OFFICER CORPS

(a) REDUCTION IN SIZE OF OFFICER CORPS.—On and after each of the dates set forth in column 1 of the following table, the total number of commissioned officers serving on active duty in the Army, Navy, Air Force, and Marine Corps (excluding officers in categories specified in subsection (b)) may not exceed the percentage, set forth in column 2 opposite such date, of the total number of commissioned officers serving on active duty as of September 30, 1986 (excluding officers in categories specified in subsection (b)):

100 STAT. 3860

Column 1	Column 2
On and after:	Percentage of total commissioned officers serving on active duty as of September 30, 1986:
September 30, 1987	99
September 30, 1988	97
September 30, 1989	94

(b) EXCLUSIONS.—In computing the authorized strength of commissioned officers under subsection (a), officers in the following categories shall be excluded:

(1) Reserve officers—

(A) on active duty for training;

(B) on active duty under section 265, 270(b), 672a, 3033, 3496, 5251, 5252, 8033, or 8496 of title 10, United States Code, or under section 708 of title 32, United States Code;

(C) on active duty under section 672(d) of title 10, United States Code, in connection with organizing, administering, recruiting, instructing, or training the reserve components or the National Guard;

(D) on active duty to pursue special work;

(E) ordered to active duty under section 673b of title 10, United States Code; or

(F) on full-time National Guard duty.

(2) Retired officers on active duty under a call or order to active duty for 180 days or less.

(3) Reserve or retired officers on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

(c) **Apportionment of Reductions by Secretary of Defense.**—The Secretary of Defense shall apportion the reductions in the number of commissioned officers serving on active duty required by subsection (a) among the Army, Navy, Air Force, and Marine Corps. Not later than February 1 of each fiscal year in which reductions are required under subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the manner in which the reductions have been or are to be apportioned for that fiscal year and for the next fiscal year for which such reductions are required.

Part B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

(a) **In General.**—The Armed Forces are authorized strengths for selected reserve personnel of the reserve components as of September 30, 1987, as follows:

(1) The Army National Guard of the United States, 452,681.
(2) The Army Reserve, 318,011.
(3) The Naval Reserve, 149,486.
(4) The Marine Corps Reserve, 43,470.
(5) The Air National Guard of the United States, 113,767.
(6) The Air Force Reserve, 79,562.
(7) The Coast Guard Reserve, 12,850.

(b) **Waiver Authority.**—The Secretary of Defense may vary an end strength prescribed by subsection (a) by not more than 2 percent.

(c) **Adjustments.**—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

(c) **Amendment to Section 115 of Title 10.**—Paragraph (1) of section 115(a) of title 10, United States Code (as designated by section 110 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

Ante, p. 1001.

"(1) Congress shall authorize the end strength as of the end of each fiscal year for the Selected Reserve of each reserve component of the armed forces. No funds may be appropriated for any fiscal year to or for the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law.".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

(a) **In General.**—Within the end strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1987, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, on full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components or the National Guard:

(1) The Army National Guard of the United States, 24,731.
(2) The Army Reserve, 12,407.
(3) The Naval Reserve, 21,476.
(4) The Marine Corps Reserve, 1,745.
(5) The Air National Guard of the United States, 8,169.
(6) The Air Force Reserve, 665.

(b) COUNTING OF PERSONNEL IN CERTAIN RESERVE CALL-UP SITUATIONS.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 685 the following new section:

10 USC 686.

"§ 686. Reserves on active duty: duties; funding

"(a) During a period that members of a reserve component are serving on active duty pursuant to an order under section 673 or 673b of this title, members of reserve components serving on active duty may perform duties in connection with either such section.

100 STAT. 3862

"(b) Funds available for the pay and allowances of Reserves referred to section 678 of this title shall be available for the pay and allowances of such Reserves who perform duties in connection with section 673 or 673b of this title under the authority of subsection (a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"686. Reserves on active duty: duties; funding.".

SEC. 413. ACCOUNTING FOR CERTAIN AUTHORIZED RESERVE COMPONENT MEMBERS

Section 115(b) of title 10, United States Code (as designated by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

Ante, p. 1001.

(1) by striking out the text of paragraph (1)(A) and inserting in lieu thereof the following: "Congress shall authorize the end strength as of the end of each fiscal year for each component of the armed forces for (i) active-duty personnel who are to be paid from funds appropriated for active-duty personnel, and (ii) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel. Upon determination by the Secretary of Defense that such action is in the national interest, the end strength authorized pursuant to clause (i) of the preceding sentence for a fiscal year may be increased by a number equal to not more than 0.5 percent of the end strength authorized for such component for that fiscal year and the end strength authorized pursuant to clause (ii) of that sentence for a fiscal year may be increased by a number equal to not more than 2 percent of such end strength authorized for such component for that fiscal year. No funds may be appropriated to or for the use of active-duty personnel or full-time National Guard duty personnel of any component of the armed forces unless the end strength for such personnel of that component for that fiscal year has been authorized by law.";

(2) in paragraph (1)(B)—

(A) by striking out "for 180 days or less" in clause (v); and

(B) by adding at the end the following new clause:

"(vii) members on full-time National Guard duty for 180 days or less."; and

(3) in paragraph (3)(D)—

(A) by striking out "and" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new clause:

"(v) an analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by the following categories:

"(I) Recruit and specialized training.

"(II) Flight training.

"(III) Professional training in military and civilian institutions.

"(IV) Officer acquisition training.".

PART C—MILITARY TRAINING

SEC. 421. MILITARY TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1987, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 76,758.
(2) The Navy, 72,483.
(3) The Marine Corps, 19,433.
(4) The Air Force, 43,911.
(5) The Army National Guard of the United States, 18,262.
(6) The Army Reserve, 15,858.
(7) The Naval Reserve, 3,493.
(8) The Marine Corps Reserve, 3,944.
(9) The Air National Guard of the United States, 3,566.
(10) The Air Force Reserve, 2,127.

(b) ADJUSTMENTS.—The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1987 shall be adjusted consistent with the personnel strengths authorized in parts A and B. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE V—DEFENSE PERSONNEL POLICY

PART A—ACTIVE FORCES

SEC. 501. ASSIGNMENT OF ACTIVE-DUTY MEMBERS OUTSIDE THE UNITED STATES

The text of section 671 of title 10, United States Code, is amended to read as follows:

"(a) A member of the armed forces may not be assigned to active duty on land outside the United States and its territories and possessions until the member has completed the basic training requirements of the armed force of which he is a member.

"(b) In time of war or a national emergency declared by Congress or the President, the period of required basic training (or its equivalent) may not be less than 12 weeks.".

SEC. 502. SERVICE OF MEMBERS ON STATE AND LOCAL JURIES

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 982. Members: service on State and local juries

10 USC 982.

"(a) A member of the armed forces on active duty may not be required to serve on a State or local jury if the Secretary concerned determines that such service—

"(1) would unreasonably interfere with the performance of the member's military duties; or

"(2) would adversely affect the readiness of the unit, command, or activity to which the member is assigned.

"(b) A determination by the Secretary concerned under this section is conclusive.

Regulations.

"(c) The Secretary concerned shall prescribe regulations for the administration of this section.

"(d) In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"982. Members: service on State and local juries.".

SEC. 503. EXTENSION OF EXPIRING AUTHORITY FOR SPOT PROMOTIONS OF NAVY LIEUTENANTS

Section 5721(f) of title 10, United States Code, is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1987".

10 USC 8251 note.

SEC. 504. REPEAL OF REQUIREMENT REGARDING ENLISTMENT OF WOMEN IN THE AIR FORCE DURING FISCAL YEAR 1987

Section 551(a) of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2530), is amended by striking out "the period beginning on October 1, 1986" and all that follows through the end of the subsection and inserting in lieu thereof "fiscal year 1988, not less than 22 percent shall be women.".

SEC. 505. AUTHORITY TO EXEMPT PHYSICIANS AT UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FROM REDUCTIONS IN RETIRED PAY

Section 2113(f) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following:

"(2) The Board may exempt, at any time, a physician who is a member of the faculty from the restrictions in subsections (a), (b), and (c) of section 5532 of title 5, if the Board determines that such exemption is necessary to recruit or retain well-qualified physicians for the faculty of the University. An exemption granted under this paragraph shall terminate upon any break in employment with the University by a physician of three days or more. An exemption granted under this paragraph to a person shall apply to the retired pay of such person beginning with the first month after the month in which the exemption is granted. Not more than two exemptions may be in effect under this paragraph at any time.".

SEC. 506. TREATMENT OF EXCESS LEAVE UPON REENLISTMENT

(a) AUTHORITY TO CARRY OVER EXCESS LEAVE.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) A member who has taken leave in excess of that authorized by this section and who is being discharged or released from active duty for the purpose of accepting an appointment or a warrant in an armed force, or of entering into an enlistment or an extension of an enlistment in an armed force, may elect to have excess leave of up to 30 days or the maximum number of days of leave that could be earned in the new term of service, whichever is less, carried over to that new term of service to count against leave that will accrue on the new term of service. A member shall be required, at the time of his discharge or release from active duty, to pay for excess leave not carried over under this subsection.".

(b) AUTHORIZATION FOR PAY AND ALLOWANCES FOR CARRIED OVER EXCESS LEAVE.—Section 502(b) of title 37, United States Code, is amended by inserting "and section 701(h) of title 10" after "subsection (a) of this section".

SEC. 507. TERMINATION OF GENDER-BASED DISTINCTIONS IN PROMOTIONS OF OFFICERS OF THE NAVAL RESERVE AND MARINE CORPS RESERVE

(a) IN GENERAL.—Chapter 549 of title 10, United States Code, is amended by striking out sections 5896 through 5899 and inserting in lieu thereof the following:

"§ 5896. Recommendations for promotion by selection boards 10 USC 5896.

"(a) A selection board convened under this chapter shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the Navy or Marine Corps for officers with particular skills, considers best qualified for promotion within each competitive category considered by the board.

"(b) A selection board convened under this chapter may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(c) Except as otherwise provided by law, an officer of the Naval Reserve or the Marine Corps Reserve may not be promoted to a higher grade under this chapter unless the officer is considered and recommended for promotion to that grade by a selection board convened under this chapter.

"§ 5897. Reports of selection boards 10 USC 5897.

"Each selection board convened under this chapter shall submit to the Secretary of the Navy a written report, signed by each member of the board, containing a list of the names of the officers recommended for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to the board under section 5895 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the Navy or the Marine Corps from among those officers whose names were furnished to the selection board.

"§ 5898. Action on reports of selection boards 10 USC 5898.

"(a) If, after reviewing the report of a selection board submitted under section 5897 of this title, the Secretary of the Navy determines that the board has acted contrary to law or regulation, the Secretary shall return the report to the board for further proceedings. Upon receipt of a report returned by the Secretary under this subsection, the selection board (or a subsequent selection board convened under this chapter for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report and shall resubmit the report, as revised, to the Secretary in accordance with section 5897 of this title.

"(b) The Secretary of the Navy shall, after final review of the report, submit it, together with the Secretary's recommendations, to the Secretary of Defense for transmittal to the President for approval, modification, or disapproval.

President of U.S.

"(c) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President. Such action may be taken at any time before the promotion of the officer.

"(d) Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If those names have not been sooner disseminated, those names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

"(e) Except as authorized or required by this section, proceedings of a selection board convened under this chapter may not be disclosed to any person not a member of the board.

10 USC 5899.

"§ 5899. Eligibility for consideration for promotion: running mates

"An officer is in the promotion zone and is eligible for consideration for promotion to the next higher grade by a selection board convened under this chapter when that officer's running mate is in or above the promotion zone established for that officer's present grade under chapter 36 of this title.".

10 USC 611 *et seq.*

(b) CLERICAL AND CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 549 of title 10, United States Code, is amended by striking out the items relating to sections 5896 through 5899 and inserting in lieu thereof the following:

"5896. Recommendations for promotion by selection boards.
"5897. Reports of selection boards.
"5898. Actions on reports of selection boards.
"5899. Eligibility for consideration for promotion: running mates.".

(2) Section 5903 of such title is amended—

(A) by striking out "(a)" at the beginning of such section; and

(B) by striking out subsection (b).

(3) Subsection (a) of section 5905 of such title is amended to read as follows:

"(a) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President. Such action may be taken at any time before the promotion of the officer.".

10 USC 5896 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to selection boards convened on or after the date of the enactment of this Act.

SEC. 508. SENATE CONFIRMATION OF CERTAIN GENERAL AND FLAG OFFICER POSITIONS

(a) DEAN OF ACADEMIC BOARD OF UNITED STATES MILITARY ACADEMY.—Section 4335 of title 10, United States Code, is amended—

(1) by striking out the last sentence of subsection (b); and

(2) by adding at the end the following new subsection:

"(c) The Dean of the Academic Board has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Army, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy.".

100 STAT. 3867

(b) DEPUTY JUDGE ADVOCATE GENERAL AND ASSISTANT JUDGE ADVOCATES GENERAL OF THE NAVY.—Section 5149 of such title is amended—

(1) in subsection (a)—

(A) by striking out the first sentence and inserting in lieu thereof the following: "There is a Deputy Judge Advocate General of the Navy who is appointed by the President, by and with the advice and consent of the Senate, from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General."; and

(B) by striking out in the second sentence "rank and" and "rank or";

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following: "While so serving, a judge advocate who holds a grade lower than rear admiral (lower half) shall hold the grade of rear admiral (lower half), if he is appointed to that grade by the President, by and with the advice and consent of the Senate."; and

(3) by striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "While so serving, a

judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general, if he is appointed to that grade by the President, by and with the advice and consent of the Senate.".

(c) Dean of the Faculty of the United States Air Force Academy.—Section 9335(b) of such title is amended to read as follows:

"(b) The Dean has the grade of brigadier general while serving in such position, with the benefits authorized for regular brigadier generals of the Air Force, if appointed to that grade by the President, by and with the advice and consent of the Senate. However, the retirement age of an officer so appointed is that of a permanent professor of the Academy.".

(d) Attending Physician to the Congress.—(1)(A) Chapter 34 of such title is amended by adding at the end the following new section:

"§ 600a. Attending Physician to the Congress 10 USC 600a.

"While serving as Attending Physician to the Congress, a Reserve who holds a reserve grade lower than major general or rear admiral shall hold the reserve grade of major general or rear admiral, as appropriate, if appointed to that grade by the President, by and with the advice and consent of the Senate.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"600a. Attending Physician to the Congress.".

(2) Section 1374 of such title is amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d) the following new subsection (e):

"(e) Unless entitled to a higher grade under another provision of law, a reserve commissioned officer who is transferred to the Retired 100 STAT. 3868 Reserve after having served in the position of Attending Physician to the Congress is entitled to be placed on the retired list established by section 1376(a) of this title in the grade held by such officer while serving in such position.".

(e) Conforming Amendment.—The second undesignated paragraph relating to the Office of the Attending Physician under the heading "JOINT ITEMS" in chapter V of the Supplemental Appropriations Act, 1973 (Public Law 92-607; 86 Stat. 1509), is repealed.

(f) Effective Date.—The amendments made by this section shall apply only with respect to appointments or details made on or after the date of the enactment of this Act. 10 USC 600a note.

SEC. 509. POSITION OF STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS

(a) In General.—(1) Chapter 506 of title 10, United States Code (as enacted by section 513 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by adding at the end the following new section: *Ante*, p. 1051.

"§ 5046. Staff Judge Advocate to the Commandant of the Marine Corps 10 USC 5046.

"(a) An officer of the Marine Corps who is a judge advocate and a member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years of experience in legal duties as a commissioned officer may be detailed as Staff Judge Advocate to the Commandant of the Marine Corps. While so serving, a judge advocate who holds a grade lower than brigadier general shall hold the grade of brigadier general if appointed to that grade by the President, by and with the advice and consent of the Senate.

"(b) An officer retiring from the position of Staff Judge Advocate to the Commandant of the Marine Corps, after serving at least three years in that position, shall be retired in the highest grade in which that officer served on active duty satisfactorily, as determined by the Secretary of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5046. Staff Judge Advocate to the Commandant of the Marine Corps.".

10 USC 5046 note.

(b) EFFECTIVE DATE.—Section 5046 of title 10, United States Code, as added by subsection (a), shall apply only with respect to appointments as Staff Judge Advocate to the Commandant of the Marine Corps made on or after the date of the enactment of this Act.

Retirement. 10 USC 5046 note.

(d) TRANSITION PROVISION.—Notwithstanding section 1370(a)(2) of title 10, United States Code, an officer serving in the position of Staff Judge Advocate to the Commandant of the Marine Corps, or an equivalent position, on the day before the date of the enactment of this Act, if retired after having served in such position (or equivalent position) at least three years, including any service in such position (or its equivalent) before such date, shall be retired in the highest grade in which the officer served on active duty satisfactorily, as determined by the Secretary of the Navy.

SEC. 510. TECHNICAL CORRECTION RELATING TO PERSONNEL ADMINISTRATION AT AIR FORCE INSTITUTE OF TECHNOLOGY

Section 9314(b)(2)(B) of title 10, United States Code, is amended by striking out "rates of basic".

10 USC 525 note.

SEC. 511. TEMPORARY INCREASE IN THE NUMBER OF GENERAL AND FLAG OFFICERS AUTHORIZED TO BE ON ACTIVE DUTY IN THREE- AND FOUR-STAR GRADES

During fiscal year 1987, the numbers of officers authorized under section 525(b) of title 10, United States Code, to be on active duty in grades above major general and rear admiral are increased as follows:

(1) AIR FORCE GENERALS.—The number of officers of the Air Force authorized to be serving on active duty in the grade of general is increased by one.

(2) NAVY VICE ADMIRALS.—The number of officers of the Navy authorized to be serving on active duty in a grade above rear admiral is increased by three. None of the additional officers in grades above rear admiral by reason of this paragraph may be in the grade of admiral.

(3) MARINE CORPS GENERAL OFFICERS.—The number of officers of the Marine Corps authorized to be serving on active duty in grades above major general is increased by two. Only one additional officer in a grade above major general by reason of this paragraph may be in the grade of general.

SEC. 512. STUDY ON STAFFING OF CRITICAL WARTIME MEDICAL SPECIALITIES

(a) STUDY.—The Secretary of Defense shall conduct a study of possible actions which could be taken by the Department of Defense or by law to improve staffing of critical wartime medical specialities (including physician, nurse, and enlisted specialities) in both the active and reserve components. The study shall address the desirability of at least the following actions:

(1) Extending the mandatory retirement age of medical personnel in the active and reserve components.

(2) Extending the age limitations on enlistments and on officer accessions for medical personnel into the active and reserve components.

(3) Improving Department of Defense marketing techniques for attracting medical personnel in critical wartime medical specialities in the active and reserve components.

(4) Establishing alternative participation requirements for medical personnel in the reserve components.

(b) Report.—Not later than March 1, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the findings of the study conducted under subsection (a). The report shall include specific recommendations for legislative and administrative action with respect to the best methods for improving the staffing of critical wartime medical specialities in both the active and reserve components.

SEC. 513. STUDY OF REPRESENTATION OF RELIGIOUS FAITHS IN THE ARMED FORCES

(a) Study.—The Secretary of Defense shall carry out a study of the faith composition of the chaplains of the Armed Forces. Such study shall include the following:

(1) A statistical listing of the faith composition of the Armed Forces and of the Corps of Chaplains, to include an analysis of how the number of adherents to faith groups is determined. 100 STAT. 3870

(2) An analysis of the benefits and detriments to the Armed Forces of using the demographic distribution of faiths among members of the Armed Forces as a guide to the faith distribution within the Corps of Chaplains.

(3) An analysis of the time devoted by chaplains to such responsibilities as administrative tasks, conduct of religious services, and counseling, with particular emphasis on the time devoted to faith-specific tasks and to non-faith-specific tasks.

(4) An analysis of the personnel policies for managing the Corps of Chaplains (including the separation of chaplains for failure to achieve promotion), and the effect of these policies upon the faith composition of the Corps of Chaplains, to include a statistical analysis of the effect on the current faith distribution within the Armed Forces today if all those chaplains involuntarily released from duty during fiscal years 1980 through 1985 had been retained on active duty until fiscal year 1986.

(5) An analysis of the benefits and detriments of using grade retentions, continuation boards, and standby tours of duty for reserve chaplains for the purpose of altering the faith composition of the Corps of Chaplains.

(6) An explanation of the manner by which chaplains are recruited and the role of organized faith groups in assisting or retarding the recruitment or retention of chaplains.

(b) Views of Faith Group Offices.—To the maximum extent possible, the Secretary shall seek the views of faith group offices that deal with chaplains. Any written comment received from any such office shall be appended to the report under subsection (c).

(c) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the study under subsection (a). The report shall include each of the matters described in paragraphs (1) through (6) of such subsection and shall be submitted no later than January 9, 1987.

Part B—Reserve Forces

SEC. 521. INCREASED PRESIDENTIAL AUTHORITY TO AUGMENT ACTIVE FORCES WITH THE SELECTED RESERVE

(a) Number of Members That May Be Ordered to Active Duty Involuntarily.—Subsection (c) of section 673b of title 10, United States Code, is amended by striking out "100,000" and inserting in lieu thereof "200,000".

(b) Authority To Extend Period of Call-Up.—Such section is further amended by adding at the end the following new subsection:

"(i) When a unit of the Selected Reserve, or a member of the Selected Reserve not assigned to a unit organized to serve as a unit of the Selected Reserve, is ordered to active duty under this section and the President determines that an extension of the service of such unit or member on active duty is necessary in the interests of national security, he may authorize the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy to extend the period of such order to active duty for a period of not more than 90 additional days. Whenever the President exercises his authority under this subsection, he shall immediately notify Congress of such action and shall include in the notification a statement of reasons for the action. Nothing in this subsection shall be construed as limiting the authorities to terminate the service of units or members ordered to active duty under this section under subsection (g).".

(c) Technical Amendments.—Such section is further amended—

(1) by striking out "Reserve component" in subsection (b) and inserting in lieu thereof "reserve component";

(2) by striking out "Armed Forces" in subsection (e) and inserting in lieu thereof "armed forces";

(3) by striking out "the Speaker" in subsection (f) and all that follows through "Senate" and inserting in lieu thereof "Congress"; and

(4) by striking out "a concurrent resolution of the Congress" in subsection (g)(2) and inserting in lieu thereof "law".

SEC. 522. CONSENT OF GOVERNOR FOR CERTAIN ACTIVE DUTY OF NATIONAL GUARD

Infra.

Section 672 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The consent of a Governor described in subsections (b) and (d) may not be withheld (in whole or in part) with regard to active duty outside the United States, its territories, and its possessions, because of any objection to the location, purpose, type, or schedule of such active duty.".

10 USC 510 note.

SEC. 523. TREATMENT OF SINGLE PARENTS ENLISTING IN RESERVE COMPONENTS OF THE ARMED FORCES

(a) In General.—In determining under section 510 of title 10, United States Code, whether a person who is applying to enlist in a reserve component of the Armed Forces upon discharge or release from active duty is qualified for enlistment as a Reserve of an Armed Force, the Secretary concerned may not disqualify the person because the person is a single parent if—

(1) the person is otherwise qualified for enlistment;

(2) the person became a single parent while serving on active duty; and

(3) the person's status as a single parent was not a factor in the person's discharge or release from active duty.

(b) Requirements Not To Be More Stringent.—The Secretary concerned shall provide that requirements imposed on a person described in subsection (a) with respect to parenthood shall not be more stringent than those imposed on a member who becomes a single parent during the term of the member's enlistment. The Secretary concerned may include a requirement for an acceptable written agreement with respect to child care as a prerequisite to enlistment.

(c) Single Parent Defined.—In this section, the term "single parent" means a person who is not married and who has custody of a child under the age of 18 pursuant to a court order.

(d) Expiration.—This section shall expire on September 30, 1988.

SEC. 524. ACTIVE-DUTY STATUS OF RESERVE COMPONENT MEMBERS IN A CAPTIVE STATUS

(a) Authority for Involuntary Call to Active Duty.—Section 672 of title 10, United States Code (as amended by section 522), is amended by adding at the end the following new subsection:

"(g)(1) A member of a reserve component may be ordered to active duty without his consent if the Secretary concerned determines that the member is in a captive status. A member ordered to active duty under this section may not be retained on active duty, without his consent, for more than 30 days after his captive status is terminated. 100 STAT. 3872

"(2) The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly among the armed forces under the jurisdiction of the Secretary. A determination for the purposes of this subsection that a member is in a captive status shall be made pursuant to such regulations. Regulations.

"(3) In this section, the term 'captive status' means the status of a member of the armed forces who is in a missing status (as defined in section 551(2) of title 37) which occurs as the result of a hostile action and is related to the member's military status.".

(b) EFFECTIVE DATE.—Section 672(g) of title 10, United States Code, as added by subsection (a), does not authorize a member of a reserve component to be ordered to active duty for a period before the date of the enactment of this Act. 10 USC 672 note.

PART C—CIVILIAN PERSONNEL

SEC. 531. WAIVER OF CIVILIAN PERSONNEL CEILINGS FOR FISCAL YEAR 1987

The provisions of section 115(b)(2) of title 10, United States Code (as designated and amended by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), shall not apply with respect to fiscal year 1987 or with respect to the appropriation of funds for that year. 10 USC 115 note. *Ante*, p. 1001.

SEC. 532. PROHIBITION ON MANAGING CIVILIAN PERSONNEL BY END-STRENGTHS DURING FISCAL YEAR 1987

(a) PROHIBITION.—During fiscal year 1987, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

(b) FY87 REPORTS.—Not later than February 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the experience of the Department of Defense during fiscal years 1986 and 1987 (to the date of the report) concerning the management of civilian personnel of the Department without a congressionally imposed civilian end strength and with a statutory prohibition on the management during those fiscal years of such civilian personnel by end strength. Each such report shall include the views of the Secretary with respect to the desirability of managing such personnel in such a manner.

(c) REPORTS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives quarterly reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal year 1987. Each report shall include—

(A) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal year 1987;

(B) for each appropriation account and for the entire Department—

(i) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the end of each month of the fiscal year quarter described in the report; and 100 STAT. 3873

(ii) the projected number of such personnel to be employed, and the amount of funds that will be obligated for such personnel, as of the end of fiscal year 1987.

SEC. 533. PROHIBITION ON CONTROLLING PERSONNEL NOT FUNDED BY GOVERNMENT

Section 129 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended—

Ante, p. 994.

(1) by inserting "(a)" at the beginning of the text of such section; and

(2) by adding at the end the following:

"(b) The number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense may not be—

"(1) subject to any constraint or limitation on the number of such personnel who may be employed on the last day of a fiscal year;

"(2) managed on the basis of any end-strength; or

"(3) controlled under any policy of the Secretary of a military department for control of civilian manpower resources.

"(c) In this section, the term 'indirectly funded Government employees' means civilian employees of the Department of Defense—

"(1) who are employed by industrial-type activities or commercial-type activities described in section 2208 of this title; and

"(2) whose salaries and benefits are funded from sources other than appropriated funds.".

SEC. 534. REDUCTION IN NUMBER OF YEARS PERSON MUST BE OFF ACTIVE DUTY BEFORE APPOINTMENT AS SERVICE SECRETARY

Sections 3013(a)(2), 5013(a)(2), and 8013(a)(2) of title 10, United States Code (as added by sections 501, 511, and 521, respectively of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), are amended by striking out "10 years" and inserting in lieu thereof "five years".

Ante, pp. 1034, 1042, 1055.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1987

37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1987 shall not be made.

(b) THREE PERCENT INCREASE IN BASIC PAY, BASIC ALLOWANCE FOR QUARTERS, AND BASIC ALLOWANCE FOR SUBSISTENCE.—The rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3 percent effective on January 1, 1987.

100 STAT. 3874

Effective date.

(c) THREE PERCENT INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1987, section 203(c)(1) of title 37, United States Code, is amended by striking out "$461.40" and inserting in lieu thereof "$494.40".

SEC. 602. AUTHORITY TO PAY ROTC MEMBERS IN ADVANCE FOR FIELD TRAINING

(a) AUTHORITY.—Section 1006 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(j) Under regulations prescribed by the Secretary concerned, not more than one month's pay may be paid in advance to a member of the Senior Reserve Officers' Training Corps who is ordered to field training or a practice required under section 2109 of title 10.".

(b) EFFECTIVE DATE.—Subsection (j) of title 37, United States Code, as added by subsection (a), shall apply with respect to pay payable for months beginning after the date of the enactment of this Act. 37 USC 1006 note.

SEC. 603. REIMBURSEMENT FOR ACCOMMODATIONS IN PLACE OF QUARTERS

(a) LIMITATION ON AMOUNT AVAILABLE FOR REIMBURSEMENTS DURING FISCAL YEARS 1987 THROUGH 1991.—Effective as of October 1, 1986, section 7572(b)(3) of title 10, United States Code, is amended to read as follows: Effective date.

"(3) The total amount of reimbursement under this subsection may not exceed $1,421,000 for fiscal year 1986 and $1,657,000 for each of the fiscal years 1987 through 1991.".

(b) EXTENSION OF AUTHORITY.—Effective as of October 1, 1986, section 3 of Public Law 96-357 (10 U.S.C. 7572 note) is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1991". Effective date.

SEC. 604. PAY, ALLOWANCES, AND BENEFITS FOR MEMBERS OF THE RESERVE COMPONENTS

(a) MEDICAL AND DENTAL CARE.—(1) Section 1074a of title 10, United States Code, is amended to read as follows:

"§ 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days 10 USC 1074a.

"(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

"(1) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing—

"(A) active duty for a period of 30 days or less; or

"(B) inactive-duty training.

"(2) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed—

"(A) active duty for a period of 30 days or less; or

"(B) inactive-duty training.

"(b) A person described in subsection (a) is entitled to—

"(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

"(2) subsistence during hospitalization.

"(c) A member is not entitled to benefits under this section if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.".

(2) The item relating to section 1074a in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days.".

(b) PAY AND ALLOWANCES FOR DISABLED MEMBERS.—Section 204 of title 37, United States Code, is amended as follows:

(1) Subsections (g) and (h) are amended to read as follows:

"(g) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member—

"(1) is called or ordered to active duty for a period of more than 30 days; and

"(2) is physically disabled in line of duty from injury, illness, or disease.

"(h)(1) A member of a reserve component of a uniformed service is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of income from non-military compensation as a result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty for a period of 30 days or less;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from that duty or training.

"(2)(A) Subject to subparagraphs (B) and (C), pay and allowances paid under paragraph (1) shall be in an amount which offsets the loss of income from non-military compensation.

"(B) Pay and allowances may not be paid under paragraph (1) to a member who is enrolled in any other income protection insurance plan to the extent that such payment would result in total benefits to the member of more than the demonstrated loss of income from non-military compensation.

"(C) The total amount of pay and allowances paid under paragraph (1) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

"(3) Pay and allowances may be paid under paragraph (1)—

"(A) for a period of not more than six months; or

"(B) for a longer period, if the Secretary concerned determines that it is in the interests of fairness and equity to do so.

"(4) A member is not entitled to benefits under this subsection if 100 STAT. 3876 the injury, illness, disease, or aggravation of an injury, illness, or disease described in paragraph (1)(C) is the result of the gross misconduct of the member.

"(5) Regulations with respect to procedures for paying pay and allowances under paragraph (1) shall be prescribed—

"(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

"(B) by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) Subsection (i) is repealed.

(3) Subsection (j) is redesignated as subsection (i).

(c) INACTIVE-DUTY TRAINING PAY FOR DISABLED MEMBERS.—Section 206(a) of title 37, United States Code, is amended by striking out "entitled to basic pay" the second place it appears and all that follows and inserting in lieu thereof the following: "entitled to basic pay—

"(1) for each regular period of instruction, or period of appropriate duty, at which the member is engaged for at least two hours, including that performed on a Sunday or holiday;

"(2) for the performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary may prescribe; or

"(3) for a regular period of instruction that the member is scheduled to perform but is unable to perform because of physical disability resulting from an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing—

"(i) active duty for a period of 30 days or less; or

"(ii) inactive-duty training; or

"(B) while traveling directly to or from that duty or training (unless such injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member).".

(d) Retirement for Disability.—(1) Sections 1204 and 1206 of title 10, United States Code, are amended by striking out "resulting from an injury".

(2)(A) The heading of section 1204 of such title is amended to read as follows:

"§ 1204. Members on active duty for 30 days or less: retirement".

(2) The heading of section 1205 of such title is amended to read as follows:

"§ 1205. Members on active duty for 30 days or less: temporary disability retired list".

(3) The heading of section 1206 of such title is amended to read as follows:

"§ 1206. Members on active duty for 30 days or less: separation".

(4) The items relating to sections 1204, 1205, and 1206 in the table of sections at the beginning of chapter 61 of such title are amended to read as follows:

"1204. Members on active duty for 30 days or less: retirement.
"1205. Members on active duty for 30 days or less: temporary disability retired list.
"1206. Members on active duty for 30 days or less: separation.".

100 STAT. 3877

(e) Death Benefits.—(1) Section 1475(a) of title 10, United States Code, is amended by striking out "from an injury incurred by him after December 31, 1956," in paragraph (3).

(2) Section 1476 of such title is amended—

(A) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) Except as provided in section 1480 of this title, the Secretary concerned shall pay a death gratuity to or for the survivors prescribed in section 1477 of this title of each person who dies within 120 days after discharge or release from—

"(A) active duty; or

"(B) inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service).

"(2) A death gratuity may be paid under paragraph (1) only if the Administrator of Veterans' Affairs determines that the death resulted from an injury or disease incurred or aggravated during—

"(A) the active duty or inactive-duty training described in paragraph (1); or

"(B) travel directly to or from such duty.";

(B) by striking out subsection (b); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(3) Section 1481(a) of such title is amended—

(A) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) a member of a reserve component of an armed force who dies while—

"(A) on active duty;

"(B) performing inactive-duty training;

"(C) performing authorized travel directly to or from active duty or inactive-duty training; or

"(D) hospitalized or undergoing treatment for an injury, illness, or disease incurred or aggravated while on active duty or performing inactive-duty training;"; and

(B) by striking out paragraph (3).

(f) Technical and Conforming Amendments.—(1) Title 10, United States Code, is amended as follows:

(A) Sections 3687, 3721, 3722, 6148, 8687, 8721, and 8722 are repealed.

(B)(i) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3687.

(ii) The table of sections at the beginning of chapter 355 is amended by striking out the items relating to sections 3721 and 3722.

(iii) The table of sections at the beginning of chapter 561 is amended by striking out the item relating to section 6148.

(iv) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8687.

(v) The table of sections at the beginning of chapter 855 is amended by striking out the items relating to sections 8721 and 8722.

(C) Sections 1076(a)(2)(B) and 1086(c)(2)(B) are amended by striking out "injury or illness" and inserting in lieu thereof "injury, illness, or disease".

100 STAT. 3878

10 USC 3723, 8723. (D) Sections 3723 and 8723 are amended by striking out "was injured, or contracted a disease," and inserting in lieu thereof "incurred an injury, illness, or disease,".

(2)(A) Sections 318, 319, 320, and 321 of title 32, United States Code, are repealed.

(B) The table of sections at the beginning of chapter 3 of such title is amended by striking out the items relating to sections 318, 319, 320, and 321.

10 USC 1074a note. (g) Effective Date.—The amendments made by this section shall apply with respect to persons who, after the date of enactment of this Act, incur or aggravate an injury, illness, or disease or die.

Part B—Travel and Transportation

SEC. 611. TRANSPORTATION OF MOTOR VEHICLES FOR MEMBERS MAKING PERMANENT CHANGES OF STATION

(a) In General.—Subsection (a) of section 2634 of title 10, United States Code, is amended—

(1) by striking out "in the case of" and all that follows through "debarkation" in paragraph (4) and inserting in lieu thereof "by other surface transportation"; and

(2) by striking out ", or his designee," in the second sentence.

(b) Revision to Definition of Change of Permanent Station.—Subsection (b) of such section is amended to read as follows:

"(b) In this section:

Armed Forces. "(1) The term 'change of permanent station' means the transfer or assignment of a member of the armed forces from a permanent station inside the continental United States to a permanent station outside the continental United States or from a permanent station outside the continental United States to another permanent station. It also includes an authorized change in home port of a vessel, or a transfer or assignment between two permanent stations in the continental United States when the member cannot, because of injury or the conditions of the order, drive the motor vehicle between the permanent duty stations.

"(2) The term 'continental United States' does not include Alaska.".

10 USC 113 note.

SEC. 612. COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents.

SEC. 613. LIMITATION ON AMOUNT FOR PCS MOVES DURING FISCAL YEAR 1987

The total amount authorized to be appropriated to the Department of Defense for fiscal year 1987 for permanent change of station moves may not exceed $2,533,760,000.

100 STAT. 3879

SEC. 614. REIMBURSEMENT FOR ACTUAL LODGING EXPENSES PLUS PER DIEM FOR MEMBERS ENTITLED TO TRAVEL ALLOWANCES

(a) IN GENERAL.—Section 404(d) of title 37, United States Code, is amended—

(1) by striking out "per diem in place of subsistence in an amount not more than $50 determined by the Secretaries concerned to be sufficient" in paragraph (1)(B) and inserting in lieu thereof "payment in lieu of subsistence as provided in paragraph (2) of this subsection in an amount sufficient";

(2) by striking out "to be" in paragraph (1)(B) after "travel is"; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Under regulations prescribed by the Secretaries concerned, a member of a uniformed service entitled to travel and transportation allowances under subsection (a) of this section is entitled to any of the following:

"(A) A per diem allowance at a rate not to exceed that established by the Secretaries concerned.

"(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Secretaries concerned.

"(C) A combination of payments described in subparagraphs (A) and (B) of this paragraph.

"(3) A per diem allowance or maximum amount of reimbursement established for purposes of paragraph (2) of this subsection shall be established, to the extent feasible, by locality.

"(4) For travel consuming less than a full day, the payment prescribed by regulation under paragraph (2) of this subsection shall be allocated in such manner as the Secretaries concerned prescribe.".

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall become effective on such date as the President makes a certification that payment of lodging expenses and per diem provided under such amendments would result in overall savings to the United States. If such amendments become effective, they shall apply with respect to travel performed on and after the date of the certification by the President. 37 USC 404 note.

(2) The President shall cause to be published in the Federal Register a certification made by him under paragraph (1).

SEC. 615. TRANSPORTATION AND TRAVEL ALLOWANCES FOR ESCORTS FOR CERTAIN DEPENDENTS

(a) IN GENERAL.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 431. Travel and transportation: members escorting certain dependents 37 USC 431.

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be provided round trip transportation and travel allowances for travel performed or to be performed under competent orders as an escort for the member's dependent when travel by the dependent is authorized by competent authority and the dependent is incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances.

100 STAT. 3880

"(b) Whenever possible, the Military Airlift Command or Military Sealift Command shall be used, on a space-required basis, for the travel authorized by this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"431. Travel and transportation: members escorting certain dependents.".

37 USC 431 note.

(b) Effective Date.—Section 431 of title 37, United States Code, as added by subsection (a), shall apply with respect to travel performed after September 30, 1986.

SEC. 616. TRAVEL EXPENSES FOR OVERSEAS DEPENDENTS REQUIRING MEDICAL CARE IN CERTAIN CIRCUMSTANCES

(a) In General.—Section 1040(a) of title 10, United States Code, is amended by striking out the comma after "attendants" and all that follows in the third sentence and inserting in lieu thereof a period and the following: "In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.".

10 USC 1040 note.

(b) Effective Date.—The amendment made by subsection (a) shall apply only to travel performed on or after the date of the enactment of this Act.

SEC. 617. PER DIEM FOR DEPENDENTS RECEIVING TRANSPORTATION ALLOWANCE

(a) In General.—Section 406 of title 37, United States Code, is amended as follows:

(1) The first sentence of subsection (e) is amended by striking out ", as the case may be," and inserting in lieu thereof the following: "(as the case may be), plus a per diem,".

(2) Subsection (f) is amended by inserting after "member" the following: ", plus a per diem for the member's dependents,".

(3) Subsection (g)(1) is amended by inserting after "404(c) of this title" the following: ", and to a per diem for his dependents".

(4) Subsection (j) is amended by inserting after "household effects," the following: "plus a per diem for the member's dependents,".

37 USC 406 note.

(b) Effective Date.—The amendments made by subsection (a) shall apply to travel performed after the date of the enactment of this Act.

SEC. 618. MODIFICATION OF FAMILY SEPARATION ALLOWANCE

(a) Denial of Allowance to Certain Members.—(1) Section 427(b) of title 37, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by designating the second sentence as paragraph (2) and striking out "clause (2) or (3)" in that sentence and inserting in lieu thereof "subparagraph (B) or (C) of paragraph (1)"; and

100 STAT. 3881

(4) by adding at the end the following:

Ante, p. 3880; *post*, p. 3882.

"(3) A member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 406 of this title is not entitled to an allowance under this subsection. The Secretary concerned may waive the preceding sentence in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances."

(b) Savings Provision.—Notwithstanding the amendments made by subsection (a), a member who on September 30, 1986, was assigned to a permanent station to which the movement of his dependents was authorized at the expense of the United States under section 406 of title 37, United States Code, and who elected to serve a tour of duty at that station unaccompanied by his dependents, shall, until he departs that station as a result of a change of permanent station, be entitled to receive the allowance authorized by section 427(b) of such title without regard to paragraph (3) of such section, as added by subsection (a). 37 USC 427 note.

SEC. 619. IMPROVED DISLOCATION ALLOWANCE

(a) In General.—Section 407 of title 37, United States Code, is amended to read as follows:

"§ 407. Travel and transportation allowances: dislocation allowance

"(a) Except as provided in subsections (b), (c), and (d) of this section and under regulations prescribed by the Secretary concerned, a member of a uniformed service is entitled to a dislocation allowance equal to the basic allowance for quarters for two months as provided for the member's pay grade and dependency status in section 403 of this title if—

"(1) the member's dependents actually make an authorized move in connection with the member's change of permanent station, including—

"(A) a move to join the member at the member's duty station after an unaccompanied tour of duty when the member's next tour of duty is an accompanied tour at the same station; and

"(B) a move to a location designated by the member after an accompanied tour of duty when the member's next tour of duty is an unaccompanied tour at the same duty station;

"(2) the member's dependents actually move pursuant to section 405a(a), 406(e), 406(h), or 554 of this title; *Ante*, p. 3880.

"(3) the member's dependents actually move from their place of residence under circumstances described in section 406a of this title; or

"(4) the member is without dependents and—

"(A) actually moves to a new permanent station where not assigned to quarters of the United States; or

"(B) actually moves from a place of residence under circumstances described in section 406a of this title.

If a dislocation allowance is paid under clause (3) or (4)(B), the member is not entitled to a dislocation allowance under clause (1).

"(b) Under regulations prescribed by the Secretary concerned, whenever a member is entitled to a dislocation allowance under subsection (a)(3) or (a)(4)(B) of this section, the member is also entitled to a second dislocation allowance equal to the basic allowance for quarters for two months as provided for a member's pay grade and dependency status in section 403 of this title if, subsequent to the member or member's dependents actually moving from their place of residence under circumstances described in section 406a of this title, the member or member's dependents complete that move to a new location and then actually move from that new location to another location also under circumstances described in section 406a of this title. If a second dislocation allowance is paid under this subsection, the member is not entitled to a dislocation allowance under subsection (a)(1) of this section in connection with those moves.

100 STAT. 3882

37 USC 403.

"(c) A member is not entitled to more than one dislocation allowance during a fiscal year unless—

"(1) the Secretary concerned finds that the exigencies of the service require the member to make more than one change of permanent station during the fiscal year;

"(2) the member is ordered to a service school as a change of permanent station;

"(3) the member's dependents are covered by section 405a(a), 406(e), 406(h), or 554 of this title; or

Ante, p. 3880.

"(4) the member or the member's dependents are covered by subsection (a)(3), (a)(4)(B), or (b) of this section.

This subsection does not apply in time of national emergency declared after April 1, 1975, or in time of war.

"(d) A member is not entitled to payment of a dislocation allowance when ordered from his home to the first duty station or from the last duty station to his home.

"(e) For purposes of this section, a member whose dependents may not make an authorized move in connection with a change of permanent station is considered a member without dependents."

37 USC 407 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply only to moves which commence on or after that date.

SEC. 620. TRANSPORTATION AND STORAGE OF HOUSEHOLD GOODS

(a) ADMINISTRATION OF STORAGE OF EXCESS HOUSEHOLD GOODS.—Section 406(d) of title 37, United States Code, is amended by inserting after the second sentence the following new sentence: "In the event a member's baggage and household effects exceed such maximum weight limitation, the Secretary concerned, if requested to do so by the member, may pay the costs for the nontemporary storage of that excess weight and collect the amount paid from the member's pay and allowances, or collect the amount in such other manner as the Secretary concerned determines appropriate.".

(b) EARLY RETURN SHIPMENT OF HOUSEHOLD GOODS AND PRIVATELY OWNED MOTOR VEHICLES FROM OVERSEAS.—(1) Section 406 of such title is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection (l):

"(l) Under uniform regulations prescribed by the Secretaries concerned, a member with dependents who is ordered to make an overseas permanent change of station and who, in anticipation of his dependents accompanying him overseas, ships baggage and household effects to that overseas station, may be authorized a return shipment of the baggage and household effects if, after the shipment, the member's dependents are unable to accompany him overseas and the Secretary concerned determines that such inability was unexpected and uncontrollable.".

100 STAT. 3883

(2) Section 2634 of title 10, United States Code, as amended by section 611, is further amended by adding at the end the following new subsection:

Ante, p. 3882.

"(f) When the Secretary concerned makes a determination under section 406(l) of title 37 that the dependents of a member on a permanent change of station are unable to accompany the member to an overseas duty station because of unexpected and uncontrollable circumstances, and the member shipped a motor vehicle pursuant to this section in anticipation of a dependent accompanying the member to the new duty station, the member may reship or transship such motor vehicle in accordance with this section.".

37 USC 406 note.

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to members whose baggage and household goods enter nontemporary storage on or after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply only with respect to members whose dependents are unable to accompany them to an overseas permanent duty station because of circumstances arising on or after the date of the enactment of this Act.

PART C—BONUSES AND SPECIAL AND INCENTIVE PAYS

SEC. 631. ENHANCED AVIATION OFFICER CONTINUATION PAY

(a) SERVICE FOR QUALIFYING.—Section 301b(e) of title 37, United States Code, is amended—

(1) by striking out "less than seven years" in the third sentence of paragraph (3), and inserting in lieu thereof "less than eight years"; and

(2) by striking out paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made for periods beginning after the date of the enactment of this Act under agreements entered into under section 301b of title 37, United States Code.

37 USC 301b note.

SEC. 632. INCLUSION OF AVIATION CADETS UNDER AVIATION CAREER INCENTIVE PAY

(a) IN GENERAL.—(1) Section 301a(a)(6) of title 37, United States Code, is amended—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof a semicolon and "and"; and

(C) by inserting after clause (B) the following new clause:

"(C) 'officer' includes an individual enlisted, and designated, as an aviation cadet under section 6911 of title 10.".

(2) Section 301a(b)(1) of such title is amended by striking out "an officer in pay grades O-1 through O-10" and inserting in lieu thereof "a member".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to those members of the Armed Forces who are aviation cadets on or after the date of the enactment of this Act. Service as an aviation cadet before that date shall not be counted for any purpose under section 301a of title 37, United States Code.

37 USC 301a note.

100 STAT. 3884

SEC. 633. SPECIAL AUTHORITY RELATING TO THE PAYMENT OF SELECTED RESERVE ENLISTMENT BONUS

(a) IN GENERAL.—The Secretary concerned may pay an enlistment bonus under section 308c of title 37, United States Code, to any person who enlisted in the Selected Reserve of the Ready Reserve of an Armed Force during the period beginning on October 1, 1985, and ending on November 8, 1985, if such person—

(1) has not been paid an enlistment or reenlistment bonus under section 308c or 308b of title 37, United States Code, since that period; and

(2) enlisted in the good faith belief (as determined by the Secretary concerned) that he would be paid an enlistment bonus under section 308c of title 37, United States Code.

(b) DEFINITION.—As used in subsection (a), the term "Secretary concerned" has the meaning provided in section 101(5) of title 37, United States Code.

SEC. 634. SPECIAL PAY FOR MEMBERS PROFICIENT IN FOREIGN LANGUAGES

(a) AUTHORITY FOR SPECIAL PAY.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 316. Special pay: foreign language proficiency pay

37 USC 316.

"(a) A member of the armed forces—

"(1) who is entitled to basic pay under section 204 of this title;

Ante, p. 3875.

"(2) who has been certified by the Secretary concerned within the past 12 months to be proficient in a foreign language identified by the Secretary of Defense as being a language in which it is necessary to have personnel proficient because of national defense considerations; and

"(3) who—

"(A) is qualified in a military specialty requiring such proficiency;

"(B) received training, under regulations prescribed by the Secretary concerned, designed to develop such proficiency;

"(C) is assigned to military duties requiring such a proficiency; or

"(D) is proficient in a foreign language for which the Department of Defense may have a critical need (as determined by the Secretary of Defense),

may be paid special pay under this section in addition to any other pay or allowance to which the member is entitled.

"(b) The monthly rate for special pay under subsection (a) shall be determined by the Secretary concerned and may not exceed $100.

"(c)(1) Under regulations prescribed by the Secretary concerned, when a member of a reserve component who is entitled to compensation under section 206 of this title meets the requirements for special pay authorized in subsection (a), except the requirement prescribed in subsection (a)(1), the member may be paid an increase in compensation equal to one-thirtieth of the monthly special pay authorized under subsection (b) for a member who is entitled to basic pay under section 204 of this title.

Ante, p. 3876.

"(2) A member eligible for increased compensation under paragraph (1) shall be paid such increase—

100 STAT. 3885

"(A) for each regular period of instruction, or period of appropriate duty, in which he is engaged for at least two hours, including instruction received or duty performed on a Sunday or holiday; and

"(B) for each period of performance of such other equivalent training, instruction, duty, or appropriate duties, as the Secretary concerned may prescribe.

"(3) This subsection does not apply to a member who is entitled to basic pay under section 204 of this title.

Ante, p. 3875.

"(d) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"316. Special pay: foreign language proficiency pay.".

37 USC 316 note.

(b) Effective Date.—Section 316 of title 37, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act, and shall apply with respect to pay periods beginning on or after that date.

(c) Limitations on Obligations.—Not more than $7,300,000 may be obligated or expended for the payment of the special pay authorized by section 316 of title 37, United States Code (as added by this section), during fiscal year 1987, and not more than $9,000,000 may be obligated or expended for such purpose during fiscal year 1988.

Part D—Benefits for Survivors and Former Spouses

SEC. 641. COURT-ORDERED SURVIVOR ANNUITIES FOR FORMER SPOUSES

(a) General Rule.—Paragraph (4) of section 1450(f) of title 10, United States Code, is amended to read as follows:

"(4) A court order may require a person to elect (or to enter into an agreement to elect) under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child).".

(b) CONFORMING AMENDMENTS.—

(1) Section 1448(b)(5) of such title is amended by inserting "(A) whether the election is being made pursuant to the requirements of a court order, or (B)" after "setting forth".

(2) Paragraph (2) of section 1450(f) of such title is amended—

(A) by striking out "enters into" and all that follows through "pursuant to such agreement" and inserting in lieu thereof "is required by a court order to elect under section 1448(b) of this title to provide an annuity to a former spouse (or to both a former spouse and child), or who enters into a written agreement (whether voluntary or required by a court order) to make such an election, and who makes an election pursuant to such order or agreement,";

(B) by striking out "in a case in which such agreement" at the beginning of subparagraph (A) and inserting in lieu thereof "in a case in which the election is required by a court order, or in which an agreement to make the election";

(C) by striking out "relating to the agreement to make such election" and inserting in lieu thereof "relating to such election, or the agreement to make such election,"; and

(D) by striking out "in which such agreement" at the beginning of subparagraph (B) and inserting in lieu thereof "of a written agreement that".

(3) Paragraph (3)(A) of such section is amended—

(A) by striking out "voluntary" both places it appears;

(B) by inserting "or if such person is required by a court order to make such an election," after "applicable State law" the first place it appears; and

(C) by inserting "requires such election or" after "on its face, which".

(c) EFFECTIVE DATE.—The amendments made by this section apply to court orders issued on or after the date of the enactment of this Act.

10 USC 1450 note.

SEC. 642. ANNUITY FOR A DEPENDENT CHILD

(a) REPEAL OF COMMON-ACCIDENT LIMITATION.—(1) Subsection (d)(2) of section 1448 of title 10, United States Code, is amended by striking out "if the member and the member's spouse die as a result of a common accident" and inserting in lieu thereof "if there is no surviving spouse or if the member's surviving spouse subsequently dies".

(2) Subsection (f)(2) of such section is amended by striking out "if the person and the person's spouse die as a result of a common accident" and inserting in lieu thereof "if there is no surviving spouse or if the person's surviving spouse subsequently dies".

(b) AMOUNT OF ANNUITY FOR DISABLED CHILD OVER AGE 62.—(1) Subsection (a) of section 1451 of such title is amended—

(A) by inserting "or is a dependent child" in paragraphs (1)(A) and (2)(A) after "under 62 years of age"; and

(B) by inserting "(other than a dependent child)" in paragraphs (1)(B) and (2)(B) after "beneficiary".

(2) Subsection (c)(1) of such section is amended—

(A) by inserting "or is a dependent child" in subparagraph (A) after "under 62 years of age"; and

(B) by inserting "(other than a dependent child)" in subparagraph (B) after "receiving the annuity".

(c) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply only to claims arising on or after March 1, 1986. The amendments made by subsection (b) shall apply to payments for periods after February 28, 1986.

10 USC 1448 note.

SEC. 643. AGE AT WHICH REMARRIAGE TERMINATES SPOUSE SURVIVOR BENEFIT

10 USC 1450.

(a) REDUCTION FROM AGE 60 TO AGE 55.—Section 1450(b) of such title is amended by striking out "age 60" both places it appears and inserting in lieu thereof "age 55".

10 USC 1450 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to remarriages that occur on or after the date of the enactment of this Act, but only with respect to payments for periods after the date of the enactment of this Act.

100 STAT. 3887

SEC. 644. REVISION OF DEFINITION OF DISPOSABLE RETIRED PAY FOR PURPOSES OF COURT ORDERS

10 USC 1408.

(a) IN GENERAL.—Section 1408(a)(4) of such title is amended—

(1) by striking out "(other than" and all that follows through "title)" in the matter preceding subparagraph (A); and

(2) by striking out subparagraph (E) and inserting in lieu thereof the following:

10 USC 1201 *et seq.*

"(E) in the case of a member entitled to retired pay under chapter 61 of this title, are equal to the amount of retired pay of the member under that chapter computed using the percentage of the member's disability on the date when the member was retired (or the date on which the member's name was placed on the temporary disability retired list); or".

10 USC 1408 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to court orders issued after the date of the enactment of this Act.

10 USC 1448 note.

SEC. 645. REVISION OF OPEN PERIOD TO ELECT FORMER SPOUSE AND CHILD COVERAGE

Section 716(b) of the Survivor Benefit Plan Amendments of 1985 (title VII of Public Law 99-145; 99 Stat. 674) is amended—

(1) by striking out "the date of the enactment of this Act" and inserting in lieu thereof "March 1, 1986,";

(2) by striking out ", within the one-year period beginning on that date of enactment,"; and

(3) by adding at the end the following new sentence: "Such an election must be made—

"(1) not later than March 1, 1987, in the case of a person who made the election to provide an annuity for a former spouse before November 8, 1985; and

"(2) not later than the end of the one-year period beginning on the date of the enactment of the Department of Defense Authorization Act, 1987, in the case of a person who made the election to provide an annuity for a former spouse during the period beginning on November 8, 1985, and ending on February 28, 1986.".

10 USC 1072 note.

SEC. 646. EXTENSION OF MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES

Section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549), is amended by striking out "during the two-year period" and inserting in lieu thereof "until the later of (1) April 1, 1988, and (2) the last day of the two-year period".

PART E—MISCELLANEOUS BENEFITS

SEC. 651. TUITION ASSISTANCE FOR ARMY RESERVE COMPONENT OFFICERS

(a) IN GENERAL.—Section 2007 of title 10, United States Code, is amended—

(1) by inserting "on active duty" in subsection (a)(3) after "a commissioned officer"; and

(2) by adding at the end of the following new subsection:

"(c)(1) Subject to paragraphs (2) and (3), the Secretary of the Army may pay not more than 75 percent of the charges of an educational institution for the tuition or expenses of an officer in the Selected Reserve of the Army National Guard or the Army Reserve for education or training of such officer in a program leading to a baccalaureate degree. 100 STAT. 3888

"(2) The Secretary may not pay charges under paragraph (1) for tuition or expenses of an officer unless the officer agrees to remain a member of the Selected Reserve for at least four years after completion of the education or training for which the charges are paid.

"(3) The Secretary may not pay charges under paragraph (1)—

"(A) for a warrant officer; or

"(B) for an officer on active duty or full-time National Guard duty.".

(b) Limitation on Amount for Fiscal Year 1987.—The total amount obligated by the Secretary of the Army under subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), during fiscal year 1987 may not exceed $3,000,000.

(c) Effective Date.—Subsection (c) of section 2007 of title 10, United States Code, as added by subsection (a), shall take effect on the date of the enactment of this Act. 10 USC 2007 note.

SEC. 652. BENEFITS FOR DEPENDENTS OF CERTAIN SENTENCED, DISCHARGED, OR DISMISSED MEMBERS

(a) Travel and Transportation of Dependents.—Paragraph (2)(A) of section 406(a) of title 37, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B) of this paragraph, a member who—

"(i) is separated from the service or released from active duty; and

"(ii) on the date of his separation from the service or release from active duty, has not served on active duty for a period of time equal to at least 90 percent of the period of time for which he initially enlisted or otherwise initially agreed to serve,

may be provided transportation under this subsection for his dependents only by transportation in kind by the least expensive mode of transportation available or by a monetary allowance that does not exceed the cost to the Government of such transportation in kind.".

(b) Transportation of Household Effects.—Section 406(h) of such title is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(1) If the Secretary concerned determines that it is in the best interests of a member described in paragraph (2) or the member's dependents and the United States, the Secretary may, when orders directing a change of permanent station for the member concerned have not been issued, or when they have been issued but cannot be used as authority for the transportation of the member's dependents, baggage, and household effects—

"(A) authorize the movement of the member's dependents, baggage, and household effects at the station to an appropriate location in the United States or its possessions or, if the dependents are foreign nationals, to the country of the dependents' origin and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in place thereof, as the case may be, plus a per diem, as authorized under subsection (a) or (b); and

"(B) in the case of a member described in paragraph (2)(A), authorize the transportation of one motor vehicle that is owned 100 STAT. 3889 by the member (or a dependent of the member) and is for his dependents' personal use to that location by means of transportation authorized under section 2634 of title 10."; and

(2) by adding at the end the following new paragraph:

"(2) A member referred to in paragraph (1) is a member who—

"(A) is serving at a station outside the United States or in Hawaii or Alaska; Hawaii. Alaska.

"(B) receives an administrative discharge under other than honorable conditions; or

"(C) is sentenced by a court-martial—

"(i) to be confined for a period of more than 30 days,

"(ii) to receive a dishonorable or bad-conduct discharge, or

"(iii) to be dismissed from a uniformed service,

if the sentence is approved under section 860(c)(2) of title 10.".

(c) MEDICAL CARE AT DOD FACILITIES.—Section 1076 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (3), if—

"(A) a member of a uniformed service receives a dishonorable or bad-conduct discharge or is dismissed from a uniformed service as a result of a court-martial conviction for an offense involving abuse of a dependent of the member, as determined in accordance with regulations prescribed by the administering Secretary for such uniformed service; and

"(B) the abused dependent needs medical or dental care for an injury or illness resulting from the abuse,

the administering Secretary may, upon request of the abused dependent, furnish medical or dental care to the dependent for the treatment of such injury or illness in facilities of the uniformed services.

"(2) Subject to paragraph (3), upon request of any dependent of a member of a uniformed service punished for an abuse described in paragraph (1)(A), the administering Secretary for such uniformed service may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of (A) the abuse, or (B) any injury or illness suffered by the abused person as a result of such abuse.

"(3) Medical and dental care furnished to a dependent of a member of the uniformed services in facilities of the uniformed services under paragraph (1) or (2)—

"(A) shall be limited to the health care prescribed by section 1077 of this title;

"(B) shall be subject to the availability of space and facilities and the capabilities of the medical and dental staff; and

"(C) shall terminate 1 year after the date on which the member is discharged or dismissed from a uniformed service as described in paragraph (1)(A).".

(d) CHAMPUS.—Section 1079 of such title is amended by adding at the end the following new subsection:

Contracts.

"(l)(1) Contracts entered into under subsection (a) shall also provide for medical care for dependents of former members of the uniformed services who are authorized to receive medical and dental care under section 1076(e) of this title in facilities of the uniformed services.

100 STAT. 3890

Ante, p. 3889.

"(2) Except as provided in paragraph (3), medical care in the case of a dependent described in section 1076(e) shall be furnished under the same conditions and subject to the same limitations as medical care furnished under this section to spouses and children of members of the uniformed services described in the first sentence of subsection (a).

"(3) Medical care may be furnished to a dependent pursuant to paragraph (1) only for an injury, illness, or other condition described in section 1076(e) of this title.".

37 USC 406 note.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply only with respect to members discharged or released from active duty on or after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply with respect to dependents about whom a determination by the Secretary concerned is made on or after the date of the enactment of this Act.

(B) In the case of a member described in section 406(h)(2)(c) of such title 37 (as added by subsection (b)), the benefits provided for the dependents of the member shall accrue on the date that the sentence is approved under section 860 of title 10, United States Code.

(3) The amendment made by subsection (c) shall apply only with respect to dependents who request medical or dental care on or after the date of the enactment of this Act. 10 USC 1076 note.

(4) The amendment made by subsection (d) shall apply only with respect to care furnished under section 1079 of title 10, United States Code, on or after the date of the enactment of this Act. 10 USC 1079 note.

SEC. 653. IMPROVED EMPLOYMENT OPPORTUNITIES FOR MILITARY SPOUSES

Section 806(b)(2) of the Military Family Act of 1985 (title VIII of Public Law 99-145; 99 Stat. 680) is amended by striking out "GS-7" and inserting in lieu thereof "GS-4". 10 USC 113 note.

SEC. 654. RETIREMENT CREDIT FOR CERTAIN FORMER NATIONAL GUARD TECHNICIANS

(a) Civil Service Retirement Credit.—A period of service performed under section 709 of title 32, United States Code (or under a prior corresponding provision of law), before January 1, 1969, which would not otherwise be creditable under subchapter III of chapter 83 of title 5, United States Code, because of the antepenultimate sentence of section 8332(b) of such title, shall be considered creditable service under such subchapter, notwithstanding such sentence, in the case of an individual described in subsection (b). 32 USC 709 note. 5 USC 8331 *et seq.*

(b) Covered Individuals.—Subsection (a) applies in the case of an individual who—

(1) before the end of the 14-month period beginning on the date of the enactment of this Act, files appropriate written application with the Office of Personnel Management in accordance with regulations under subsection (c);

(2) at the time of filing application under paragraph (1), is employed by the United States and is subject to subchapter III of chapter 83 of title 5, United States Code (other than under section 8344 of such title); and

(3) before the date of the separation on which entitlement to an annuity under subchapter III of chapter 83 of title 5, United States Code, is based, makes an appropriate deposit under section 8334(c) of such title with respect to the period of service involved, based on the percentage of basic pay for such service 100 STAT. 3891 which would be required under such section if such service had been performed as an employee under such subchapter.

(c) Regulations.—The Office of Personnel Management shall prescribe regulations to carry out subsection (a). Such regulations shall be prescribed not later than 60 days after the date of the enactment of this Act.

SEC. 655. MEAL REIMBURSEMENT FOR NONPROFIT YOUTH GROUPS RESIDING AT MILITARY INSTALLATIONS

Section 1011(b) of title 37, United States Code, is amended by inserting after "military installation" in the second sentence the following: "or when residing at a military installation pursuant to an agreement in effect on June 30, 1986,".

SEC. 656. PERIOD FOR USE OF COMMISSARIES BY MEMBERS OF SELECTED RESERVE

(a) In General.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1052. Period for use of commissary stores: eligibility attributable to active duty for training 10 USC 1052.

"(a) Period for Use of Eligibility.—If, under regulations establishing eligibility for use of commissary stores, a member of the armed forces accrues eligibility to use commissary stores of the Department of Defense by reason of the performance of active duty for training, the Secretary concerned shall authorize the member to have one year from the date on which the member performs active duty for training to use a day of eligibility for using commissary stores attributable to the performance of that duty.

"(b) LIMITATION.—A member may not use commissary stores by reason of this section for more than 14 days in any period of 365 days.

"(c) REGULATIONS.—The Secretary concerned shall prescribe regulations, subject to the approval of the Secretary of Defense, to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1052. Period for use of commissary stores: eligibility attributable to active duty for training.".

(b) REPEAL OF TEST PROGRAM.—Section 1013 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 665), is repealed.

10 USC 1052 note.

(c) EFFECTIVE DATE.—Section 1052 of title 10, United States Code, as added by the amendments made by subsection (a), and the repeal made by subsection (b), shall apply only with respect to active duty for training performed on or after the date of the enactment of this Act.

PART F—ADMINISTRATION OF PERSONNEL BENEFITS

SEC. 661. ENHANCED METHOD FOR DETERMINING TRUE COSTS OF MILITARY RETIREMENT

(a) USE OF DUAL PERCENTAGE DETERMINATIONS.—Section 1465(b)(1) of title 10, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "That amount shall be the sum of the following:

"(A) The product of—

"(i) the current estimate of the value of the single level percentage of basic pay to be determined under subsection (c)(1)(A) at the time of the next actuarial valuation under subsection (c); and

"(ii) the total amount of basic pay expected to be paid during that fiscal year to members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only).

"(B) The product of—

Ante, p. 3876.

"(i) the current estimate of the value of the single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) to be determined under subsection (c)(1)(B) at the time of the next actuarial valuation under subsection (c); and

"(ii) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) expected to be paid during that fiscal year to members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described in subparagraph (A)(ii).".

10 USC 1465.

(2) Section 1465(c)(1) of such title is amended by striking out the second sentence and inserting in lieu thereof the following: "Each actuarial valuation of such programs shall include—

"(A) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay for members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only); and

"(B) a determination (using the aggregate entry-age normal cost method) of a single level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) for members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described by subparagraph (A).

Such single level percentages shall be used for the purposes of subsection (b) and section 1466(a) of this title.".

(b) Payments Into Military Retirement Fund Based on Dual Determinations.—The first sentence of section 1466(a) of such title is amended by striking out "the amount that is" and all that follows in such sentence and inserting in lieu thereof "the amount that is the sum of the following:

"(1) The product of—

"(A) the level percentage of basic pay determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(A) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

"(B) the total amount of basic pay paid that month to members of the armed forces (other than the Coast Guard) on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only).

"(2) The product of—

"(A) the level percentage of basic pay and of compensation (paid pursuant to section 206 of title 37) determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1465(c)(1)(B) of this title (except that any statutory change in the military retirement and survivor benefit systems that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

Ante, p. 3876.

"(B) the total amount of basic pay and of compensation (paid pursuant to section 206 of title 37) paid that month to members of the Ready Reserve of the armed forces (other than the Coast Guard and other than members on full-time National Guard duty other than for training) who are not otherwise described in paragraph (1)(B).".

(c) Development and Submission of Data on Reserve Components.—Not later than September 30, 1987, the Secretary of each military department shall develop the data required pursuant to Department of Defense Instruction Number 7730.54 (dated May 7, 1986) and submit such data to the Secretary of Defense. In accordance with such instruction, such data shall include the following with respect to each member of a reserve component:

(1) Date of initial entry into military service.

(2) Total days of active Federal military service.

(3) Years creditable for Reserve retirement under chapter 67 of title 10, United States Code.

10 USC 1331 *et seq.*

(4) Reserve component accumulated total creditable retirement points earned during the member's most recently completed retirement year.

(5) Reserve component accumulated paid points earned during the member's most recently completed retirement year.

(6) Reserve component total accumulated creditable points toward retirement earned during the member's career.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall apply to payments required to be made under section

10 USC 1465 note.

1466(a) of title 10, United States Code, as amended by subsection (b), for months beginning on or after the date of the enactment of this Act.

SEC. 662. AUTHORITY TO PAY BANK CHARGES IN THE EVENT OF GOVERNMENT ERROR IN MANDATORY DIRECT DEPOSIT OF MEMBERS' PAY

(a) In General.—(1) Chapter 53 of title 10, United States Code (as amended by section 656), is amended by adding at the end the following new section:

10 USC 1053.

"§ 1053. Relief for expenses because of error in mandatory direct deposit of pay

"(a) A member of the armed forces who, by law or regulation, is required to participate in a program for the automatic deposit of pay to a financial institution may be reimbursed for overdraft charges levied by the financial institution when such charges result from an administrative or mechanical error on the part of the Government that causes such member's pay to be deposited late or in an incorrect amount or manner.

"(b) Reimbursements under this section shall be made from appropriations available for the pay and allowances of members of the armed force concerned.

"(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

"(d) In this section, the term 'financial institution' has the meaning given that term in section 3332 of title 31.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1053. Relief for expenses because of error in mandatory direct deposit of pay.".

10 USC 1053 note.

(c) Effective Date.—Section 1053 of title 10, United States Code, as added by subsection (a), shall apply only with respect to charges levied as a result of errors occurring on or after the date of the enactment of this Act.

37 USC 308 note.

SEC. 663. COST REDUCTIONS FOR FISCAL YEAR 1987

(a) Selective Reenlistment Bonus.—During fiscal year 1987, the Secretary concerned may not pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

(b) Reserve Unit and Individual Training.—During fiscal year 1987, the amount spent for reserve unit and individual training may not exceed $5,084,500,000.

TITLE VII—HEALTH-CARE MANAGEMENT REFORM

SEC. 701. IMPROVEMENT OF MILITARY HEALTH-CARE DELIVERY SYSTEM

(a) In General.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end the following new sections:

10 USC 1096.

"§ 1096. Military-civilian health services partnership program

"(a) Resources Sharing Agreements.—The Secretary of Defense may enter into an agreement providing for the sharing of resources between facilities of the uniformed services and facilities of a civilian health care provider or providers that the Secretary contracts with under section 1079, 1086, or 1097 of this title if the Secretary determines that such an agreement would result in the delivery of health care to which covered beneficiaries are entitled under this chapter in a more effective, efficient, or economical manner.

10 USC 1079, 1086, 1097.

"(b) Eligible Resources.—An agreement entered into under subsection (a) may provide for the sharing of—

"(1) personnel (including support personnel);

"(2) equipment;

"(3) supplies; and

"(4) any other items or facilities necessary for the provision of health care services.

"(c) COMPUTATION OF CHARGES.—A covered beneficiary, with respect to care provided to such beneficiary in facilities of the uniformed services under a sharing agreement entered into under subsection (a), shall pay—

"(1) in the case of a dependent, the charges prescribed by section 1078 of this title; and 10 USC 1078.

"(2) in the case of a member or former member entitled to retired or retainer pay, the charges prescribed by section 1075 of this title. 10 USC 1075.

"§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

10 USC 1097.

"(a) IN GENERAL.—The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

"(1) Health maintenance organizations.

"(2) Preferred provider organizations.

"(3) Individual providers, individual medical facilities, or insurers.

"(4) Consortiums of such providers, facilities, or insurers.

"(b) SCOPE OF COVERAGE UNDER HEALTH CARE PLANS.—A contract entered into under this section may provide for the delivery of—

"(1) selected health care services;

"(2) total health care services for selected covered beneficiaries; or

"(3) total health care services for all covered beneficiaries who reside in a geographical area designated by the Secretary.

"(c) CHARGES FOR HEALTH CARE.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section.

"§ 1098. Incentives for participation in cost-effective health care plans

10 USC 1098.

"(a) WAIVER OF LIMITATIONS AND COPAYMENTS.—Subject to subsections (b) and (c), the Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part— Contracts.

10 USC 1079, 1086.

"(1) any limitation set out in the second sentence of section 1079(a) of this title; or

"(2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

"(b) DETERMINATION AND REPORT.—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

"(A) be less costly to the Government than a plan subject to such limitations or payment requirements; or

"(B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

"(2) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under— Report.

"(A) a plan with respect to which the limitations and payment requirements are waived; and

"(B) a plan with respect to which there is no such waiver

"(3) A waiver under paragraph (1) may not take effect until the end of the 180-day period beginning on the date on which the

100 STAT. 3896 Secretary submits the report required by paragraph (2) with respect to such waiver.

10 USC 1099.

"§ 1099. Health care enrollment system

"(a) Establishment of System.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

"(b) Description of System.—Such system shall—

"(1) allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or

"(2) if necessary in order to ensure full use of facilities of the uniformed services in a geographical area, assign covered beneficiaries who reside in such area to such facilities.

"(c) Health Care Plans Available Under System.—A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:

"(1) Use of facilities of the uniformed services.

"(2) The Civilian Health and Medical Program of the Uniformed Services.

Contracts.

"(3) Any other health care plan contracted for by the Secretary of Defense.

"(4) Any combination of the plans described in paragraphs (1), (2), and (3).

"(d) Regulations.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

10 USC 1100.

"§ 1100. Military Health Care Account

"(a) Establishment of Account.—(1) There is hereby established in the Department of Defense an account to be known as the 'Military Health Care Account'. All sums appropriated to carry out the functions of the Secretary of Defense with respect to the Civilian Health and Medical Program of the Uniformed Services shall be appropriated to the account.

"(2) Amounts appropriated to the account shall remain available until obligated or expended under subsection (b) or (c).

Contracts.

"(b) Obligation of Amounts From Account by Secretary of Defense.—The Secretary of Defense may obligate or expend funds from the account for purposes of entering into a contract under section 1079, 1086, 1092, or 1097 of this title to the extent amounts are available in the account.

10 USC 1079, 1086, 1092; *ante*, p. 3895.

"(c) Allocation of Amounts in Account for Provision of Medical Care by Service Secretaries.—(1) The Secretary of a military department shall, before the beginning of a fiscal year quarter, provide to the Secretary of Defense an estimate of the amounts necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of the Secretary for that quarter.

"(2) The Secretary of Defense shall, subject to amounts provided in advance in appropriation Acts, make available to each Secretary of a military department the amount from the account that the Secretary of Defense determines is necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of such Secretary for that quarter.

100 STAT. 3897

"(d) Expenditure of Amounts From Account by Service Secretaries.—The Secretary of a military department shall provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for a fiscal year quarter from amounts appropriated to the Secretary and from amounts from the account made available for that quarter to the Secretary by the Secretary of Defense. If the Secretary of a military department exhausts the amounts from the account made available to the Secretary for a fiscal year quarter, the Secretary shall transfer to the account from amounts appropriated to the Secretary an amount sufficient to provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for the remainder of the fiscal year quarter.

"(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'account' means the Military Health Care Account established in subsection (a).

"(2) The term 'program' means the Civilian Health and Medical Program of the Uniformed Services.

"§ 1101. Diagnosis-related groups

10 USC 1101.

"(a) ESTABLISHMENT OF DRGs.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish by regulation the use of diagnosis-related groups as the primary criteria for allocation of resources to facilities of the uniformed services.

"(b) EXCEPTION FOR MOBILIZATION MISSIONS.—Diagnosis-related groups shall not be used to allocate resources to the facilities of the uniformed services to the extent that such resources are required by such facilities for mobilization missions.

"(c) CONTENT OF REGULATIONS.—(1) Such regulations shall establish a system of diagnosis-related groups similar to the system established under section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)). Such regulations shall include the following:

"(1) A classification of inpatient treatments by diagnosis-related groups and a similar classification of outpatient treatment.

"(2) A methodology for classifying specific treatments within such groups.

"(3) An appropriate weighting factor for each such diagnosis-related group which reflects the relative resources used by a facility of a uniformed service with respect to treatments classified within that group compared to treatments classified within other groups.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"1096. Military-civilian health services partnership program.
"1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care.
"1098. Incentives for participation in cost-effective health care plans.
"1099. Health care enrollment system.
"1100. Military Health Care Account.
"1101. Diagnosis-related groups.".

(b) DEFINITIONS.—Section 1072 of title 10, United States Code, is amended—

100 STAT. 3898

(1) by striking out " 'Uniformed services' means" in paragraph (1) and inserting in lieu thereof "The term 'uniformed services' means";

(2) by striking out " 'Dependent', with respect to" in paragraph (2) and inserting in lieu thereof "The term 'dependent', with respect to";

(3) by striking out " 'Administering Secretaries' means" in paragraph (3) and inserting in lieu thereof "The term 'administering Secretaries' means"; and

(4) by adding at the end the following new paragraphs:

"(4) The term 'Civilian Health and Medical Program of the Uniformed Services' means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

10 USC 1079, 1086.
10 USC 1091, 1097.
10 USC 1092.

"(5) The term 'covered beneficiary' means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.". 10 USC 1074.

10 USC 1099 note.

(c) REPORTS TO CONGRESS.—(1) Not later than July 1, 1987, the Secretary of Defense shall submit to Congress a report detailing—

(A) any plans to establish or implement a system of health care enrollment (other than as required under section 702(a)(2)(C)) under section 1099(a) of title 10, United States Code (as added by subsection (a)(1)); and

(B) the plan of the Secretary for completing the implementation of such system.

10 USC 1100 note.

(2) The Secretary shall submit to Congress—

(1) not later than May 1, 1987, a report on plans of the Secretary for establishing diagnosis-related groups for inpatient services under section 1100(a) of title 10, United States Code (as added by subsection (a)(1)); and

(2) not later than May 1, 1988, a report on plans of the Secretary for establishing diagnosis-related groups for outpatient services under such section.

10 USC 1099 note.

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the Secretary of Defense shall prescribe regulations as required by section 1099(d) of title 10, United States Code (as added by subsection (a)(1)) to implement the system of health care enrollment for covered beneficiaries—

(A) on October 1, 1987, with respect to—

(i) covered beneficiaries included in the demonstration project required under section 702; and

(ii) facilities of the uniformed services located in the geographical area covered by the demonstration project; and

(B) not later than September 30, 1990, for all other covered beneficiaries and facilities of the uniformed services.

(2) The Secretary may not assign covered beneficiaries to facilities of the uniformed services, as authorized by section 1099(b)(2) of such title (as added by subsection (a)(1)), before October 1, 1990.

Effective date. 10 USC 1100 note.

(3) Section 1100 of such title (as added by subsection (a)(1)) shall take effect on October 1, 1987.

10 USC 1101 note.

(4) The Secretary of Defense shall prescribe regulations as required by section 1101(a) of such title (as added by subsection (a)(1)) to take effect—

100 STAT. 3899

(A) in the case of inpatient treatments, after September 30, 1987; and

(B) in the case of outpatient treatments, after September 30, 1988.

10 USC 1073 note. Contracts.

SEC. 702. CHAMPUS REFORM INITIATIVE

(a) DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct a project designed to demonstrate the feasibility of improving the effectiveness of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) through the competitive selection of contractors to financially underwrite the delivery of health care services under the program.

(2) The demonstration project required by paragraph (1)—

(A) shall begin not later than September 30, 1988, and continue for not less than one year;

(B) shall include not more than one-third of covered beneficiaries; and

(C) shall include a health care enrollment system that meets the requirements specified in section 1099 of title 10, United States Code (as added by section 701(a)(1)).

Report.

(3)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the development of the demonstration project required by paragraph (1). Such report shall include—

(i) a description of the scope and structure of the project;

(ii) an estimate of the costs of the care to be provided under the project; and

(iii) a description of the health care enrollment system included in the project.

(B) The report required by subparagraph (A) shall be submitted—

(i) not later than 60 days before the initiation of the project, if the project is to be restricted to a contiguous area of the United States; or

(ii) not later than 60 days before a solicitation for bids or proposals with respect to such project is issued, if the project will not be restricted to a contiguous area of the United States.

(b) STUDY OF HEALTH CARE ALTERNATIVES.—(1) The demonstration project required by subsection (a)(1) shall include a study of—

(A) methods to guarantee the maintenance of competition among providers of health care to persons under the jurisdiction of the Secretary;

(B) the merits of the use of a voucher system or a fee schedule for provision of health care to such persons; and

(C) methods to guarantee that community hospitals are given equal consideration with other health care providers for provision of health care services under contracts with the Department of Defense. Hospitals. Contracts.

(2) The Secretary shall submit to Congress a report discussing the matters evaluated in the study required by paragraph (1) before the end of the 90-day period beginning on the date of the enactment of this Act. Report.

(c) PHASED IMPLEMENTATION OF CHAMPUS REFORM INITIATIVE.—(1) The Secretary of Defense may proceed with implementation of the CHAMPUS reform initiative, to be carried out in two phases during a period of not less than two years, if—

100 STAT. 3900

(A) the Secretary determines, based on the results of the demonstration project required by subsection (a)(1), that such initiative should be implemented;

(B) not less than one year elapses after the date on which the demonstration project required by subsection (a)(1) is initiated; and

(C) 90 days elapse after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report that includes— Report.

(i) a description of the results of the demonstration project;

(ii) a description of any changes the Secretary intends to make in the initiative during the proposed implementation; and

(iii) a comparison of the costs of providing health care under CHAMPUS with the costs of providing health care under the demonstration project and the estimated costs of providing health care under the CHAMPUS reform initiative if fully implemented.

(d) DEFINITIONS.—In this section:

(1) The term "CHAMPUS reform initiative" means the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(2) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given such term in section 1072(4) of title 10, United States Code (as added by section 701(b)).

(3) The term "covered beneficiary" has the meaning given such term in section 1072(5) of title 10, United States Code (as added by section 701(b)).

SEC. 703. CHAMPUS CATCHMENT AREAS

Section 1079(a)(7) of title 10, United States Code, is amended by striking out "pays for at least 75 percent of the services" and inserting in lieu thereof "provides primary coverage for the services".

SEC. 704. MEDICAL INFORMATION SYSTEMS ACQUISITION

(a) LIMITATION ON ACQUISITION OF MEDICAL INFORMATION SYSTEM.—(1) The Secretary of Defense may not acquire a medical information system for use in all military medical treatment facilities until—

(A) the testing required by subsection (b) is completed;

(B) the report required by subsection (d)(2) is submitted; and

(C) 30 days elapse after the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report described in paragraph (2).

(2) The report required by paragraph (1)(B) shall be submitted after the completion of the testing required by subsection (b) and shall include—

(A) an evaluation of the competing medical information systems, based on the extended benchmark test, operational test, and incremental price and delivery schedules described in subsection (b);

100 STAT. 3901 (B) an evaluation of the hospital management computer system of the Veterans' Administration known as the Veterans' Administration Decentralized Hospital Computer Program based on the demonstration project described in subsection (c); and

(C) the decision of the Secretary with respect to acquiring a medical information system for use in all military medical treatment facilities.

(b) TESTING OF MEDICAL INFORMATION SYSTEMS.—(1) The Secretary shall carry out an extended benchmark test of competing medical information systems using the testing specifications described in Solicitation No. DAHC 26-85-R-0009 (relating to acquisition of the Composite Health Care System).

(2) The Secretary shall carry out an operational test of competing medical information systems. Such test shall—

(A) be conducted in medium-to-large military medical treatment facilities; and

(B) shall be not less than nine months and not more than one year in duration.

(3) Each vendor that submits a medical information system for testing under paragraphs (1) and (2) shall provide to the Secretary incremental price and delivery schedules for each function described in I, II, IID, and III of Solicitation No. DAHC26-85-R-0009. Such schedules shall be provided before the end of the one-year period beginning on the date on which the operational test described in paragraph (2) is initiated.

(c) VETERANS' ADMINISTRATION DECENTRALIZED HOSPITAL COMPUTER PROGRAM.—(1) The Secretary shall continue to carry out the demonstration project required by section 1203 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 718), with respect to the Veterans' Administration Decentralized Hospital Computer Program. Such project shall be completed not later than October 1, 1987.

(2) Section 1203(c) of the Department of Defense Authorization Act, 1986, is amended—

(A) by striking out "available"; and

(B) by inserting "that are available at least three months before the date on which the demonstration project is expected to be completed" after "software)".

(d) EVALUATION AND REPORT BY COMPTROLLER GENERAL.—The Comptroller General shall—

(1) monitor the testing required by subsection (b); and

(2) submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating such testing before the end of the 30-day period beginning on the date that such testing is completed.

(e) DEFINITIONS.—In this section:

(1) The term "medical information system" means a computer-based information system that—

(A) receives data normally recorded concerning patients;

(B) creates and maintains from such data a computerized medical record for each patient; and

(C) provides access to data for patient care, hospital administration, research, and medical care resource planning.

(2) The term "military medical treatment facility" means a hospital, medical center, or clinic under the jurisdiction of the Secretary of a military department or the Secretary of Defense.

(3) The term "medium-to-large military medical treatment facility" means a military medical treatment facility with 150 or more beds.

(4) The term "Secretary" means the Secretary of Defense.

SEC. 705. CONFIDENTIALITY OF MEDICAL QUALITY ASSURANCE RECORDS

(a) IN GENERAL.—Chapter 55 of title 10, United States Code (as amended by section 701), is further amended by adding at the end the following new section:

"§ 1102. Confidentiality of medical quality assurance records: qualified immunity for participants

10 USC 1102.

"(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for the Department of Defense as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

"(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—(1) No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

"(2) A person who reviews or creates medical quality assurance records for the Department of Defense or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

"(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—(1) Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

"(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, of Department of Defense health care facilities.

"(B) To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

"(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

"(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institution.

"(E) To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

"(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

"(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

"(2) With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with such department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to section 552a of title 5, United States Code.

"(d) Disclosure for Certain Purposes.—(1) Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of Department of Defense medical quality assurance programs.

"(2) Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if such record pertains to any matter within their respective jurisdictions.

"(e) Prohibition on Disclosure of Record or Testimony.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

"(f) Exemption From Freedom of Information Act.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

"(g) Limitation on Civil Liability.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

"(h) Application to Information in Certain Other Records.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

"(i) Regulations.—The Secretary of Defense shall prescribe regulations to implement this section.

"(j) Definitions.—In this section:

100 STAT. 3904

"(1) The term 'medical quality assurance program' means any activity carried out before, on, or after the date of the enactment of this section by or for the Department of Defense to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

"(2) The term 'medical quality assurance record' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Department of Defense as part of a medical quality assurance program.

"(3) The term 'health care provider' means any military or civilian health care professional who, under regulations of a military department, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

"(k) PENALTY.—Any person who willfully discloses a medical quality assurance record other than as provided in this section, knowing that such record is a medical quality assurance record, shall be fined not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.".

(2) The table of sections at the beginning of such chapter (as amended by sections 701 and 702) is amended by adding at the end the following new item:

"1102. Confidentiality of medical quality assurance records: qualified immunity for participants.".

(b) EFFECTIVE DATE.—Section 1102 of title 10, United States Code, as added by subsection (a), shall apply to all records created before, on, or after the date of the enactment of this Act by or for the Department of Defense as part of a medical quality assurance program. 10 USC 1102 note.

(c) RESTRICTION ON USE OF INFORMATION OBTAINED DURING CERTAIN EPIDEMIOLOGIC-ASSESSMENT INTERVIEWS.—(1) Information obtained by the Department of Defense during or as a result of an epidemiologic-assessment interview with a serum-positive member of the Armed Forces may not be used to support any adverse personnel action against the member. 10 USC 1074 note.

(2) For purposes of paragraph (1):

(A) The term "epidemiologic-assessment interview" means questioning of a serum-positive member of the Armed Forces for purposes of medical treatment or counseling or for epidemiologic or statistical purposes.

(B) The term "serum-positive member of the Armed Forces" means a member of the Armed Forces who has been identified as having been exposed to a virus associated with the acquired immune deficiency syndrome.

(C) The term "adverse personnel action" includes—

(i) a court-martial;

(ii) non-judicial punishment;

100 STAT. 3905

(iii) involuntary separation (other than for medical reasons);

(iv) administrative or punitive reduction in grade;

(v) denial of promotion;

(vi) an unfavorable entry in a personnel record;

(vii) a bar to reenlistment; and

(viii) any other action considered by the Secretary concerned to be an adverse personnel action.

SEC. 706. USE OF PUBLIC HEALTH SERVICE HOSPITALS AS FACILITIES OF THE UNIFORMED SERVICES

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended by striking out "December 31, 1987" in the first sentence and inserting in lieu thereof "December 31, 1988".

SEC. 707. LIMITATION ON DENTAL INSURANCE PROGRAM

(a) AMOUNT OF PREMIUM.—Subsection (b)(2) of section 1076a of title 10, United States Code, is amended to read as follows:

"(2) A member enrolled in a plan under this section shall pay a premium of not more than $10 per month for the member and the family of the member.".

(b) ANNUAL COST OF PROGRAM.—Such section is further amended by adding at the end the following new subsection:

"(h) The Secretary of Defense may not spend more than $105,000,000 (in fiscal year 1986 dollars) for a plan under this section during any fiscal year.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized to be appropriated for fiscal year 1987 for Operations and Maintenance, Defense Agencies, not more than $18,000,000 may be used for the purpose of providing a dental insurance program under section 1076a of title 10, United States Code (as amended by this section).

Military Justice Amendments of 1986.

TITLE VIII—UNIFORM CODE OF MILITARY JUSTICE

10 USC 801 note.

SEC. 801. SHORT TITLE; REFERENCES TO UNIFORM CODE OF MILITARY JUSTICE

(a) SHORT TITLE.—This title may be cited as the "Military Justice Amendments of 1986".

(b) REFERENCES TO UCMJ.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice).

10 USC 801 *et seq.*

10 USC 850a.

SEC. 802. DEFENSE OF LACK OF MENTAL RESPONSIBILITY

(a) IN GENERAL.—(1) Subchapter VII is amended by inserting after section 850 (article 50) the following new section (article):

"§ 850a. Art. 50a. Defense of lack of mental responsibility

"(a) It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.

"(b) The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

"(c) Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge, or the president of a court-martial without a military judge, shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of lack of mental responsibility.

"(d) Subsection (c) does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused—

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of lack of mental responsibility.

"(e) Notwithstanding the provisions of section 852 of this title (article 52), the accused shall be found not guilty only by reason of lack of mental responsibility if— 10 USC 852.

"(1) a majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or

"(2) in the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 850 (article 50) the following new item:

"850a. 50a. Defense of lack of mental responsibility.".

(b) Effective Date.—Section 850a of title 10, United States Code, as added by subsection (a)(1), shall apply only to offenses committed on or after the date of the enactment of this Act. 10 USC 850 note.

SEC. 803. APPLICATION FOR ENLISTED MEMBERS TO SERVE ON COURT-MARTIAL

(a) In General.—Section 825(c)(1) (article 25(c)(1)) is amended by striking out "has requested in writing" and inserting in lieu thereof "has requested orally on the record or in writing".

(b) Effective Date.—The amendment made by subsection (a) shall apply only to a case in which arraignment is completed on or after the effective date of this title. 10 USC 825 note.

SEC. 804. COURT-MARTIAL JURISDICTION OVER RESERVE MEMBERS

(a) Jurisdiction Over Reserve Members Under Certain Circumstances.—(1) Paragraph (3) of section 802(a) (article 2(a)) is amended to read as follows:

"(3) Members of a reserve component while on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.".

(2) Section 802 (article 2) is further amended by adding at the end the following new subsection:

100 STAT. 3907

"(d)(1) A member of a reserve component who is not on active duty and who is made the subject of proceedings under section 815 (article 15) or section 830 (article 30) with respect to an offense against this chapter may be ordered to active duty involuntarily for the purpose of—

"(A) investigation under section 832 of this title (article 32);

"(B) trial by court-martial; or

"(C) nonjudicial punishment under section 815 of this title (article 15).

"(2) A member of a reserve component may not be ordered to active duty under paragraph (1) except with respect to an offense committed while the member was—

"(A) on active duty; or

"(B) on inactive-duty training, but in the case of members of the Army National Guard of the United States or the Air National Guard of the United States only when in Federal service.

"(3) Authority to order a member to active duty under paragraph (1) shall be exercised under regulations prescribed by the President.

"(4) A member may be ordered to active duty under paragraph (1) only by a person empowered to convene general courts-martial in a regular component of the armed forces.

"(5) A member ordered to active duty under paragraph (1), unless the order to active duty was approved by the Secretary concerned, may not—

"(A) be sentenced to confinement; or

"(B) be required to serve a punishment consisting of any restriction on liberty during a period other than a period of inactive-duty training or active duty (other than active duty ordered under paragraph (1)).".

(b) Continued Amenability to Jurisdiction.—Section 803 (article 3) is amended by adding at the end the following new subsection:

"(d) A member of a reserve component who is subject to this chapter is not, by virtue of the termination of a period of active duty or inactive-duty training, relieved from amenability to the jurisdiction of this chapter for an offense against this chapter committed during such period of active duty or inactive-duty training.".

(c) Authority To Administer Oaths.—Section 936 (article 136) is amended by inserting "or performing inactive-duty training" in subsections (a) and (b) after "active duty".

(d) Articles To Be Explained.—The text of section 937 (article 137) is amended to read as follows:

"(a)(1) The sections of this title (articles of the Uniform Code of Military Justice) specified in paragraph (3) shall be carefully explained to each enlisted member at the time of (or within six days after)—

"(A) the member's initial entrance on active duty; or

"(B) the member's initial entrance into a duty status with a reserve component.

"(2) Such sections (articles) shall be explained again—

"(A) after the member has completed six months of active duty or, in the case of a member of a reserve component, after the member has completed basic or recruit training; and

"(B) at the time when the member reenlists.

"(3) This subsection applies with respect to sections 802, 803, 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this title (articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-139). 100 STAT. 3908

"(b) The text of the Uniform Code of Military Justice and of the regulations prescribed by the President under such Code shall be made available to a member on active duty or to a member of a reserve component, upon request by the member, for the member's personal examination.".

10 USC 802 note. (e) Effective Date.—The amendments made by subsections (a) and (b) shall apply only to an offense committed on or after the effective date of this title.

SEC. 805. STATUTE OF LIMITATIONS

(a) Revision of Statutes of Limitation.—Subsections (a), (b), and (c) of section 843 (article 43) are amended to read as follows:

"(a) A person charged with absence without leave or missing movement in time of war, or with any offense punishable by death, may be tried and punished at any time without limitation.

"(b)(1) Except as otherwise provided in this section (article), a person charged with an offense is not liable to be tried by court-martial if the offense was committed more than five years before the receipt of sworn charges and specifications by an officer exercising summary court-martial jurisdiction over the command.

"(2) A person charged with an offense is not liable to be punished under section 815 of this title (article 15) if the offense was committed more than two years before the imposition of punishment.

"(c) Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this section (article).".

(b) Time for Reinstatement of Charges.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations—

"(A) has expired; or

"(B) will expire within 180 days after the date of dismissal of the charges and specifications, trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (2) are met.

"(2) The conditions referred to in paragraph (1) are that the new charges and specifications must—

"(A) be received by an officer exercising summary court-martial jurisdiction over the command within 180 days after the dismissal of the charges or specifications; and

"(B) allege the same acts or omissions that were alleged in the dismissed charges or specifications (or allege acts or omissions that were included in the dismissed charges or specifications)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to an offense committed on or after the date of the enactment of this Act. 10 USC 843 note.

SEC. 806. TIME FOR DEFENSE POST-TRIAL SUBMISSIONS

(a) SIMPLIFICATION OF TIME FOR SUBMISSION.—Subsection (b) of section 860 (article 60) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (2) as paragraph (3) and inserting a comma in that paragraph after "case"; and

(3) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Except in a summary court-martial case, such a submission shall be made within 10 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of the staff judge advocate or legal officer under subsection (d). In a summary court-martial case, such a submission shall be made within seven days after the sentence is announced.

"(2) If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under paragraph (1) for not more than an additional 20 days.".

(b) RECOMMENDATIONS OF STAFF JUDGE ADVOCATE.—Subsection (c)(2) of such section is amended by striking out "and, if applicable, under subsection (d),".

(c) CONFORMING AMENDMENTS.—Subsection (d) of such section is amended—

(1) in the third sentence, by striking out "who shall have five days from the date of receipt in which to submit any matter in response" and inserting in lieu thereof "who may submit any matter in response under subsection (b)"; and

(2) by striking out the fourth sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases in which the sentence is adjudged on or after the effective date of this title. 10 USC 860 note.

SEC. 807. DETAIL OF JUDGE ADVOCATES

(a) REPRESENTATION OF UNITED STATES INTERESTS.—Section 806 (article 6) is amended by adding at the end the following new subsection:

"(d)(1) A judge advocate who is assigned or detailed to perform the functions of a civil office in the Government of the United States under section 973(b)(2)(B) of this title may perform such duties as may be requested by the agency concerned, including representation of the United States in civil and criminal cases. 10 USC 973.

"(2) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations providing that reimbursement may be a condition of assistance by judge advocates assigned or detailed under section 973(b)(2)(B) of this title.". Regulations.

10 USC 806 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a)—

(1) shall take effect on the date of the enactment of this Act; and

(2) may not be construed to invalidate an action taken by a judge advocate, pursuant to an assignment or detail under section 973(b)(2)(B) of title 10, United States Code, before the date of the enactment of this Act.

10 USC 802 note.

SEC. 808. EFFECTIVE DATE

10 USC 802, 805, 807.

Except as provided in sections 802(b), 805(c), and 807(b), this title and the amendments made by this title shall take effect on the earlier of—

(1) the last day of the 120-day period beginning on the date of the enactment of this Act; or

100 STAT. 3910

(2) the date specified in an Executive order for such amendments to take effect.

Defense Acquisition Improvement Act of 1986. 10 USC 101 note.

TITLE IV—PROCUREMENT POLICY REFORM

SEC. 900. SHORT TITLE

This title may be cited as the "Defense Acquisition Improvement Act of 1986".

PART A—MANAGEMENT OF THE ACQUISITION PROCESS

SEC. 901. DUTIES AND PRECEDENCE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Section 133 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended to read as follows:

"§ 133. Under Secretary of Defense for Acquisition

"(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background in the private sector.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

"(1) supervising Department of Defense acquisition;

"(2) establishing policies for acquisition (including procurement, research and development, logistics, developmental testing, and contract administration) for all elements of the Department of Defense;

"(3) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

"(4) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

"(c) The Under Secretary—

"(1) is the senior procurement executive for the Department of Defense for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3));

"(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

"(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the

Under Secretary has responsibility, unless otherwise provided by law.

"(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department. Contracts.

"(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

"(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act. 5 USC app.

"(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

"(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.".

SEC. 902. ESTABLISHMENT OF POSITION OF DEPUTY UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) ESTABLISHMENT OF POSITION.—(1) Chapter 4 of title 10, United States Code (as amended by title I of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting after section 133 the following new section:

"§ 133a. Deputy Under Secretary of Defense for Acquisition 10 USC 133a.

"(a) There is a Deputy Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Deputy Under Secretary of Defense for Acquisition shall assist the Under Secretary of Defense for Acquisition in the performance of his duties. The Deputy Under Secretary shall act for, and exercise the powers of, the Under Secretary when the Under Secretary is absent or disabled.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 133 the following new item:

"133a. Deputy Under Secretary of Defense for Acquisition."

(b) PAY GRADE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Under Secretary of Defense for Acquisition.".

SEC. 903. OTHER SENIOR CIVILIAN ACQUISITION OFFICIALS

(a) PRECEDENCE OF UNDER SECRETARY FOR POLICY.—Section 134 of title 10, United State Code (as designated by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by inserting "the Under Secretary of Defense for Acquisition," in subsection (c) after "Deputy Secretary of Defense,". *Ante*, p. 997.

(b) FUNCTIONS AND GRADE OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Section 135 of title 10, United States Code (as amended by section 105 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended— *Ante*, p. 997.

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Except as otherwise prescribed by the Secretary of Defense, the Director of Defense Research and Engineering shall perform

100 STAT. 3912 such duties relating to research and engineering as the Under Secretary of Defense for Acquisition may prescribe."; and

(B) by striking out subsection (c).

(2)(A) Section 5314 of title 5, United States Code, is amended by striking out "Director of Defense Research and Engineering.".

(B) Section 5315 of such title is amended by adding at the end the following:

"Director of Defense Research and Engineering.".

(c) INDEPENDENCE AND STAFF OF DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 138 of title 10, United States Code (as redesignated by section 101(a), of the Goldwater-Nichols Department *Ante*, p. 994. of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended—

(1) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in the first sentence of subsection (b);

(2) by inserting "and the Under Secretary of Defense for Acquisition" after "Secretary of Defense" in subsection (b)(2);

(3) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (b)(5) after "Secretary of Defense";

(4) by inserting ", to the Under Secretary of Defense for Acquisition," in subsection (c) after "Secretary of Defense" the first place such term appears;

(5) by inserting "personally" in the first sentence of subsection (d) after "Secretary of Defense";

(6) by inserting ", the Under Secretary of Defense for Acquisition," in the second sentence of subsection (g)(1) after "Secretary of Defense"; and

(7) by adding at the end the following new subsection:

"(i) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.".

(d) DIRECTOR OF OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended by inserting ", except that in the case of the Department of Defense the Director of the Office of Small and Disadvantaged Business Utilization shall be responsible to, and report directly to, the Under Secretary of Defense for Acquisition".

(e) CONFORMING AMENDMENT FOR ARMED FORCES POLICY COUNCIL MEMBERSHIP.—Section 171(a) of title 10, United States Code is amended—

(1) by redesignating paragraphs (3) through (11) as paragraphs (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) the Under Secretary of Defense for Acquisition,"; and

(3) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) the Under Secretary of Defense for Policy;

"(8) the Deputy Under Secretary of Defense for Acquisition;".

SEC. 904. ENHANCED PROGRAM STABILITY FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) PROGRAM STABILITY.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2434 (as redesignated by 100 STAT. 3913 section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) the following new section:

10 USC 2435. **"§ 2435. Enhanced program stability**

"(a) BASELINE DESCRIPTION REQUIREMENT.—(1) The Secretary of a military department shall establish a baseline description for a major defense acquisition program under the jurisdiction of such Secretary—

"(A) before such program enters full-scale engineering development; and

"(B) before such program enters full-rate production.

"(2) A baseline description required under paragraph (1) shall include the following:

"(A) In the case of the full-scale development stage—

"(i) a description of the performance goals for the weapons system to be acquired under the program;

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) total development costs for such stage by fiscal year; and

"(iv) the schedule of development milestones.

"(B) In the case of the production stage—

"(i) a description of the performance of the weapons system to be acquired under the program,

"(ii) a description of the technical characteristics and configuration of such system;

"(iii) number of end items by fiscal year;

"(iv) the schedule of development milestones;

"(v) testing;

"(vi) initial training;

"(vii) initial provisioning; and

"(viii) total procurement costs for such stage (including the cost of all elements included in the baseline description) by fiscal year, which may not exceed the amount of the independent cost estimate for that program submitted to the Secretary of Defense under section 2434 of this title. 10 USC 2434.

"(b) PROGRAM DEVIATION REPORTS.—(1) The program manager of a major defense acquisition program shall immediately submit a program deviation report for such program to the Secretary of the military department concerned and to the senior procurement executive of such military department (designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))) if such manager determines at any time during the full-scale engineering development stage or the production stage that there is reasonable cause to believe that—

"(A) the total cost of completion of the program will be more than the amount specified in the baseline description established under subsection (a) for such stage;

"(B) any milestone specified in such baseline description will not be completed as scheduled; or

"(C) the system to be acquired under the program will not fulfill the description of performance, technical characteristics, or configuration specified in such baseline description.

"(2) The Secretary of the military department concerned shall, with respect to any major defense acquisition program for which a program deviation report is received under paragraph (1)—

"(A) establish a review panel to review such program; and 100 STAT. 3914

"(B) submit a report containing the program deviation report and the results of such review to the Under Secretary of Defense for Acquisition before the end of the 45-day period beginning on the date that the program deviation report is submitted under paragraph (1).

"(c) DEFINITION.—In this section, the term 'major defense acquisition program' has the meaning given that term in section 2432(a)(1) of this title.". 10 USC 2432.

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2434 the following new item:

"2435. Enhanced program stability.".

(b) EFFECTIVE DATE.—Section 2435 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major defense acquisition programs that enter full-scale engineering development or full-rate production after the date of the enactment of this Act. 10 USC 2435 note.

SEC. 905. DEFENSE ENTERPRISE PROGRAMS

(a) In General.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2435 (as added by section 904) the following new section:

10 USC 2436.

"§ 2436. Defense enterprise programs

"(a) In General.—The Secretary of Defense shall conduct, through the Secretaries of the military departments, a program with respect to increasing the efficiency of the management structure of defense acquisition programs by reducing the number of officials through whom a program manager reports to the senior procurement executive of the military department concerned.

"(b) Designation of Participating Programs.—The Secretary of a military department may designate any defense acquisition program under the jurisdiction of the Secretary to participate in the program described in subsection (a). A program designated under this subsection shall be known as a 'defense enterprise program'.

"(c) Guidelines.—The Secretary of Defense shall issue guidelines governing the management of defense enterprise programs. Such guidelines shall include the following requirements:

"(1) The Secretary concerned shall designate a program executive officer for each program.

Report.

"(2) The program manager for each program shall report with respect to such program directly, without intervening review or approval, to the program executive officer for the program.

"(3) The program executive officer for a program shall report with respect to such program directly, without intervening review or approval, to the senior procurement executive of the military department concerned designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).

"(4) The program executive officer to whom a defense enterprise program manager reports shall evaluate the job performance of such manager on an annual basis. In conducting an evaluation under this paragraph, a program executive officer shall consider the extent to which the manager has achieved the objectives of the program for which the manager is responsible, including quality, timeliness, and cost objectives.

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"(5) The manager of a defense enterprise program shall be authorized staff positions for a technical staff, including experts in business management, contracting, auditing, engineering, testing, and logistics.

"(d) Applicable Rules and Regulations.—(1) Except as specified by the senior procurement executive of the military department concerned, a defense enterprise program shall not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation and the Department of Defense supplement to the Federal Acquisition Regulation.

"(2) Paragraph (1) shall not be construed to limit or modify the application of Federal legislation relating to the acquisition activities of the Department of Defense.

10 USC 2320.

"(3) In this subsection the term 'Federal Acquisition Regulation' has the meaning given such term in section 2320(a)(4) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2435 (as added by section 904) the following new item:

"2436. Defense enterprise programs.".

10 USC 2436 note.

(b) The Secretary of each military department shall designate for fiscal year 1988 not less than three defense acquisition programs under the jurisdiction of the Secretary to participate in the program described in section 2436(a) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 906. MILESTONE AUTHORIZATION OF DEFENSE ENTERPRISE PROGRAMS

(a) In General.—(1) Chapter 144 of title 10, United States Code, is amended by adding after section 2436 (as inserted by section 905) the following new section:

"§ 2437. Defense enterprise programs: milestone authorization 10 USC 2437.

"(a) Designation of Participating Programs.—(1) The Secretary of Defense may designate defense enterprise programs in each military department (as designated by the Secretary of the military department under section 2436 of this title) to be considered for milestone authorization under subsection (b).

"(2) The Secretary may designate a defense enterprise program under paragraph (1) only if the program—

"(A) is ready to proceed into the full-scale engineering development stage or the full-rate production stage; or

"(B) is in either of such stages.

"(b) Submission of Baseline Descriptions.—Not later than the end of the 90-day period beginning on the date that a defense enterprise program is designated under subsection (a), the Secretary of Defense shall—

"(1) in the case of a program that is subject to section 2435(a) of this title, submit to the Committees on Armed Services of the Senate and House of Representatives the baseline description for the program required to be submitted under such section; *Ante*, p. 3913.

"(2) in the case of a program that is not subject to such section—

"(A) establish a baseline description that meets the requirements of such section; and

"(B) submit the baseline description to such committees; and

"(3) request from Congress the authority to obligate funds in a single amount sufficient to carry out the stage for which the baseline description is submitted.

"(c) Milestone Authorization.—Congress shall authorize funds for the full-scale engineering development stage or the full-rate production stage of a program designated by the Secretary of Defense under subsection (a) in a single amount sufficient to carry out that stage, but not for a period in excess of five years, if such program is approved by Congress to—

"(1) proceed into or complete the full-scale engineering development stage; or

"(2) proceed into or complete the full-rate production stage.

"(d) Program Deviations.—(1) If the Secretary of Defense receives a program deviation report under section 2435(b) of this title with respect to a defense enterprise program for which funds are authorized under subsection (b)— *Ante*, p. 3913.

"(A) the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives of the receipt of such report before the end of the 15-day period beginning on the date on which the Secretary receives such report; and

"(B) except as provided in paragraph (2), after the end of the 45-day period beginning on the date on which the Secretary of Defense receives such report, the Secretary concerned may not obligate amounts appropriated or otherwise made available to the Department of Defense for purposes of carrying out the program.

"(2) Paragraph (1)(B) does not apply if the Secretary of Defense notifies Congress that the Secretary intends to—

"(A) convene a board to formally review the program; and

"(B) submit to Congress a revised baseline description for the program and the recommendations of the board convened under subparagraph (A) concurrent with the submission by the President of the budget for the next fiscal year under section 1105(a) of title 31.

"(3) The Secretary concerned may not obligate, for the purpose of carrying out a program described in paragraph (1) for which a program deviation report is received, amounts appropriated or otherwise made available to the Department of Defense for the fiscal year following the fiscal year during which the program deviation report was received unless such amounts are authorized to be appropriated after the date on which such report was received.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2436 (as inserted by section 905) the following new item:

"2437. Defense enterprise programs: milestone authorization.".

10 USC 2437 note.

(b) Initial Designation of Participating Programs.—The Secretary of Defense shall designate for fiscal year 1988 not less than three defense enterprise programs to be considered for milestone authorization under subsection (b). The Secretary shall make such designations as part of the budget submission of the Department of Defense for such fiscal year.

SEC. 907. PREFERENCE FOR NONDEVELOPMENTAL ITEMS

(a) In General.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2325.

"§ 2325. Preference for nondevelopmental items

"(a) Preference.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

"(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

"(A) functions to be performed;

"(B) performance required; or

"(C) essential physical characteristics;

"(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; and

"(3) such requirements are fulfilled through the procurement of nondevelopmental items.

"(b) Implementation.—The Secretary of Defense shall carry out this section through the Under Secretary of Defense for Acquisition, who shall have responsibility for its effective implementation.

"(c) Regulations.—The Secretary of Defense shall prescribe regulations to carry out this section.

"(d) Definition.—In this section, the term 'nondevelopmental item' means—

"(1) any item of supply that is available in the commercial marketplace;

"(2) any previously-developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(3) any item of supply described in paragraph (1) or (2) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(4) any item of supply that is currently being produced that does not meet the requirements of paragraph (1), (2), or (3) solely because the item—

"(A) is not yet in use; or

"(B) is not yet available in the commercial marketplace.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2325. Preference for nondevelopmental items.".

(3) The Secretary of Defense shall prescribe regulations as required by section 2325(c) of title 10, United States Code (as added by subsection (a)(1)), before the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2325 note.

(b) Removal of Impediments to Acquisition of Nondevelopmental Items.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report— Report. 10 USC 2325 note.

(A) identifying actions taken, including training of personnel and changes in regulations and procurement procedures, to implement the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) identifying all statutes and regulations that are determined by the Secretary to impede the acquisition of nondevelopmental items by the Department of Defense; and

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(C) recommending any legislation that the Secretary considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(2) The Secretary shall take appropriate steps to remove any impediments identified by the Secretary under paragraph (1)(A) that are under the jurisdiction of the Secretary.

(3) The report required by paragraph (1) shall be submitted before the end of the one-year period beginning on the date of the enactment of this Act.

(c) Evaluation by Comptroller General.—(1) The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1)).

(2) The Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by paragraph (1). Such report shall include— Report.

(A) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of section 2325 of title 10, United States Code (as added by subsection (a)(1));

(B) a description of any programs conducted to notify acquisition personnel of the Department of Defense of the requirements of such section and to train such personnel in the appropriate procedures for carrying out such section;

(C) a description of each law, regulation, and procedure which prevents or restricts maximum practicable use of nondevelopmental items to fulfill the supply requirements of the Department of Defense; and

(D) such recommendations for additional legislation as the Comptroller General considers necessary or appropriate to promote maximum procurement of nondevelopmental items to fulfill the supply requirements of the Department of Defense.

(3) The report required by paragraph (2) shall be submitted before the end of the two-year period beginning on the date of the enactment of this Act.

(d) Definition.—For the purposes of subsections (b) and (c), the term "nondevelopmental items" has the meaning given such term in section 2325(d) of title 10, United States Code (as added by subsection (a)(1)).

SEC. 908. REQUIREMENTS RELATING TO UNDEFINITIZED CONTRACTUAL ACTIONS

(a) Limitation on Use of Funds for Undefinitized Contractual Actions.—(1) On the last day of each six-month period described in paragraph (4), the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretary of each military department shall determine— 10 USC 2326 note.

(A) the total amount of funds obligated for contractual actions during the six-month period;

(B) the total amount of funds obligated during the six-month period for undefinitized contractual actions; and

(C) the total amount of funds obligated during the six-month period for undefinitized contractual actions that are not definitized on or before the last day of such period.

(2) On the last day of each six-month period described in paragraph (4), the amount of funds obligated for undefinitized contractual actions entered into by the Secretary of Defense (with respect to the Defense Logistics Agency) or the Secretary of a military department during the six-month period that are not definitized on or before such day may not exceed 10 percent of the amount of funds obligated for all contractual actions entered into by the Secretary during the six-month period.

(3) If on the last day of a six-month period described in paragraph (4) the total amount of funds obligated for undefinitized contractual actions under the jurisdiction of a Secretary that were entered into during the six-month period exceeds the limit established in paragraph (2), the Secretary—

Report.

(A) shall, not later than the end of the 45-day period beginning on the first day following the six-month period, submit to the defense committees an unclassified report concerning—

(i) the amount of funds obligated for contractual actions under the jurisdiction of the Secretary that were entered into during the six-month period with respect to which the report is submitted; and

(ii) the amount of such funds obligated for undefinitized contractual actions; and

(B) except with respect to the six-month period described in paragraph (4)(A), may not enter into any additional undefinitized contractual actions until the date on which the Secretary certifies to Congress that such limit is not exceeded by the cumulative amount of funds obligated for undefinitized contractual actions under the jurisdiction of the Secretary that are not definitized on or before such date and were entered into—

(i) during the six-month period for which such limit was exceeded; or

(ii) after the end of such six-month period.

(4) This subsection applies to the following six-month periods:

(A) The period beginning on October 1, 1986, and ending on March 31, 1987.

(B) The period beginning on April 1, 1987, and ending on September 30, 1987.

(C) The period beginning on October 1, 1987, and ending on March 31, 1988.

(D) The period beginning on April 1, 1988, and ending on September 30, 1988.

(E) The period beginning on October 1, 1988, and ending on March 31, 1989.

10 USC 2326 note.

(b) OVERSIGHT BY INSPECTOR GENERAL.—The Inspector General of the Department of Defense shall—

(1) periodically conduct an audit of contractual actions under the jurisdiction of the Secretary of Defense (with respect to the Defense Logistics Agency) and the Secretaries of the military departments; and

Report.

(2) after each audit, submit to Congress a report on the management of undefinitized contractual actions by each Secretary, including the amount of contractual actions under the jurisdiction of each Secretary that is represented by undefinitized contractual actions.

Defense and national security. 10 USC 2326 note.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the application of this section for urgent and compelling considerations relating to national security or public safety if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of such waiver before the end of the 30-day period beginning on the date that the waiver is made.

(d) ESTABLISHMENT OF REQUIREMENTS WITH RESPECT TO UNDEFINITIZED CONTRACTUAL ACTIONS.—(1)(A) Chapter 137 of title 10, United States Code, is amended by adding after section 2325 (as added by section 907) the following new section:

"§ 2326. Undefinitized contractual actions: restrictions

10 USC 2326.

"(a) IN GENERAL.—The head of an agency may not enter into an undefinitized contractual action unless the request to the head of the agency for authorization of the contractual action includes a description of the anticipated effect on requirements of the military department concerned if a delay is incurred for purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

"(b) LIMITATIONS ON OBLIGATION AND EXPENDITURE OF FUNDS.—(1) A contracting officer of the Department of Defense may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specifications, and price by the earlier of—

"(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

"(B) the date on which the amount of funds obligated or expended under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

"(2) Except as provided in paragraph (3), the contracting officer for an undefinitized contractual action may not expend with respect to such contractual action an amount that is equal to more than 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(3) If a contractor submits a qualifying proposal (as defined in subsection (g)) to definitize an undefinitized contractual action before an amount equal to more than 50 percent of the negotiated overall ceiling price is expended on such action, the contracting officer for such action may not expend with respect to such contractual action an amount that is equal to more than 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

"(4) This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

"(c) INCLUSION OF NON-URGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action for spare parts and support equipment that are needed on an urgent basis unless the head of the agency approves such inclusion as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(d) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the head of the agency approves such modification as being—

"(1) good business practice; and

"(2) in the best interests of the United States.

"(e) ALLOWABLE PROFIT.—The head of an agency shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

"(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

"(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

"(f) APPLICABILITY.—This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(g) DEFINITIONS.—In this section:

"(1) The term 'undefinitized contractual action' means a new procurement action entered into by the head of an agency for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action. Such term does not include contractual actions with respect to the following:

"(A) Foreign military sales.

"(B) Purchases of less than $25,000.

"(C) Special access programs.

"(D) Congressionally-mandated long-lead procurement contracts.

"(2) The term 'qualifying proposal' means a proposal that contains sufficient information to enable the Department of Defense to conduct complete and meaningful audits of the information contained in the proposal and of any other information that the Department is entitled to review in connection with the contract, as determined by the contracting officer.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2325 (as added by section 907) the following new item:

"2326. Undefinitized contractual actions: restrictions.".

10 USC 2326 note.

(2) Section 2326 of title 10, United States Code (as added by subsection (d)(1)), applies to undefinitized contractual actions that are entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

10 USC 2326 note.

(e) DEFINITION.—For purposes of this section, the term "undefinitized contractual action" has the meaning given such term in section 2325(g) of title 10, United States Code (as added by subsection (d)(1)).

SEC. 909. COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) ESTABLISHMENT OF REQUIREMENT.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2364 (as added by section 234) the following new section:

10 USC 2365.

"§ 2365. Competitive prototype strategy requirement: major defense acquisition programs

"(a) COMPETITIVE PROTOTYPE STRATEGY REQUIREMENT.—Except as provided in subsection (c), the Secretary of Defense shall require the use of a competitive prototype program strategy in the development of a major weapons system (or a subsystem of such system).

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Contracts.

"(b) QUALIFYING STRATEGIES.—An acquisition strategy qualifies as a competitive prototype strategy if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in subparagraph (B) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapons system (or subsystem of such system) after—

"(1) the Secretary submits to Congress—

"(A) written notification that use of a competitive prototype program strategy is not practicable with respect to such system or subsystem; and

"(B) a report that fully explains why use of such a strategy is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of the competitive prototype strategy with the total program cost of the alternative acquisition strategy; and Report.

"(2) 30 days elapse after the Secretary submits the notification and report required by paragraph (1).

"(d) DEFINITIONS.—In this section:

"(1) The term 'major weapons system' means a major weapons system that is acquired under a program that is a major defense acquisition program.

"(2) The term 'major defense acquisition program' means a Department of Defense acquisition program that—

"(A) is not a highly sensitive classified program (as determined by the Secretary of Defense); and

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars).

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2364 (as added by section 234) the following new item:

"2365. Competitive prototype strategy requirement: major defense acquisition programs.".

(b) EFFECTIVE DATE.—Section 2365 of title 10, United States Code (as added by subsection (a)(1)), shall apply to major weapons systems (as defined in subsection (c)(1) of such section) that enter the advanced development stage after September 30, 1986. 10 USC 2365 note.

SEC. 910. TESTING OF CERTAIN WEAPON SYSTEMS AND MUNITIONS

(a) SURVIVABILITY AND LETHALITY TESTING AND OPERATIONAL TESTING.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2365 (as added by section 909) the following new section:

"§ 2366. Major systems and munitions programs: survivability and lethality testing; operational testing

10 USC 2366.

"(a) REQUIREMENTS.—The Secretary of Defense shall provide that—

"(1) a covered system may not proceed beyond low-rate initial production until realistic survivability testing of the system is completed in accordance with this section;

"(2) a major munition program or a missile program may not proceed beyond low-rate initial production until realistic lethality testing of the program is completed in accordance with this section; and

"(3) a major defense acquisition program may not proceed beyond low-rate initial production until initial operational test and evaluation of the program is completed in accordance with this section.

"(b) **Test Guidelines.**—(1) Survivability and lethality tests required under subsection (a) shall be carried out sufficiently early in the development phase of the system or program to allow any design deficiency demonstrated by the testing to be corrected in the design of the system, munition, or missile before proceeding beyond low-rate initial production.

"(2) In the case of a major defense acquisition program, no person employed by the contractor for the system being tested may be involved in the conduct of the operational test and evaluation required under subsection (a).

"(3) The costs of all tests required under that subsection shall be paid from funds available for the system being tested.

"(c) **Waiver Authority.**—The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, or missile program if the Secretary, before the system or program enters full-scale engineering development, certifies to Congress that live-fire testing of such system or program would be unreasonably expensive and impractical.

President of U.S.

"(d) **Waiver in Time of War or Mobilization.**—In time of war or mobilization, the President may suspend the operation of any provision of this section.

"(e) **Definitions.**—In this section:

"(1) The term 'covered system' means a vehicle, weapon platform, or conventional weapon system—

"(A) that includes features designed to provide some degree of protection to users in combat; and

"(B) that is a major system within the meaning of that term in section 2303(5) of this title.

"(2) The term 'major munitions program' means—

"(A) a munition program for which more than 1,000,000 rounds are planned to be acquired; or

"(B) a conventional munitions program that is a major system within the meaning of that term in section 2302(5) of this title.

"(3) The term 'major defense acquisition program' means—

"(A) a conventional weapons system that is a major system within the meaning of that term in section 2302(5) of this title; and

"(B) is designed for use in combat.

"(4) The term 'realistic survivability testing' means, in the case of a covered system, testing for vulnerability and survivability of the system in combat by firing munitions likely to be encountered in combat (or munitions with a capability similar to such munitions) at the system configured for combat, with the primary emphasis on testing vulnerability with respect to potential user casualties and taking into equal consideration the operational requirements and combat performance of the system.

"(5) The term 'realistic lethality testing' means, in the case of a major munitions program or a missile program, testing for lethality by firing the munition or missile concerned at appropriate targets configured for combat.

"(6) The term 'configured for combat', with respect to a weapon system, platform, or vehicle, means loaded or equipped with all dangerous materials (including all flammables and explosives) that would normally be on board in combat.

10 USC 138.

"(7) The term 'operational test and evaluation' has the meaning given that term in section 138(a)(2)(A) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2365 (as added by section 909) the following new item:

"2366. Major systems and munitions programs: survivability and lethality testing; operational testing.".

(b) EFFECTIVE DATE.—Section 2366 of title 10, United States Code (as added by subsection (a)), shall apply with respect to any decision to proceed with a program beyond low-rate initial production that is made— 10 USC 2366 note.

(1) after May 31, 1987, in the case of a decision referred to in subsection (a)(1) or (a)(2) of such section; or

(2) after the date of the enactment of this Act, in the case of a decision referred to in subsection (a)(3) of such section.

(c) TIME FOR SUBMISSION OF ANNUAL REPORT OF DIRECTOR (OT&E).—Subsection (g)(1) of section 138 of such title (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by striking out "January 15" in the second sentence and all that follows through 'is prepared' and inserting in lieu thereof "10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31". *Ante*, p. 994.

SEC. 911. GOALS FOR INCREASED USE OF MULTIYEAR CONTRACTING AUTHORITY IN FISCAL YEAR 1988

(a) IN GENERAL.—The Secretary of Defense shall take appropriate actions to ensure that the Department of Defense increases the use of multiyear contracting authority in fiscal year 1988.

(b) MULTIYEAR PROCUREMENT GOAL.—The total amount obligated under multiyear contracts (authorized by section 2306(h) of title 10, United States Code) for Department of Defense procurement program eligible for multiyear contracting during fiscal year 1988 should be an amount that is not less than 10 percent of the total obligational authority used by the Department of Defense for procurement programs of the Department during such fiscal year.

(c) APPORTIONMENT OF GOAL.—The Secretary of Defense shall specify the percentage of obligational authority of each military department and Defense Agency that is to be used for multiyear contracts to achieve the goal prescribed in subsection (b).

(d) BASELINE REPORT.—Not later than January 1, 1987, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a written report which contains—

(1) a list of all procurement programs which the Secretary determines to be procurement programs eligible for multiyear contracting that are subject to the requirements of section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)); *Ante*, p. 994.

(2) the Secretary's assessment of the feasibility and desirability of the multiyear procurement goal prescribed in subsection (b); and

(3) whether the Secretary expects to achieve the goal prescribed in subsection (b) for fiscal year 1988 and, if the Secretary does not expect to achieve such goal, the reasons why such goal will not be achieved.

(e) DEFINITIONS.—As used in this section the term "procurement program eligible for multiyear contracting" means a procurement program of the Department of Defense—

(1) which satisfies the conditions of clauses (A) through (F) of section 2306(h)(1) of title 10, United States Code; and

(2) under which production of fully configured end items is planned for a period exceeding three fiscal years.

SEC. 912. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

(a) In General.—(1) Chapter 139 of title 10, United States Code, is amended by adding after section 2366 (as added by section 910) the following new section:

10 USC 2367.

"§ 2367. Use of federally funded research and development centers

"(a) Limitation on Use of Centers.—Except as provided in subsection (b), the Secretary of Defense may not place work with a federally funded research and development center unless such work is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement of the Department of Defense with such center.

"(b) Exception for Applied Scientific Research.—This section does not apply to a federally funded research and development center that performs applied scientific research under laboratory conditions.

100 STAT. 3926

"(c) Limitation on Creation of New Centers.—(1) The head of an agency may not obligate or expend amounts appropriated to the Department of Defense for purposes of operating a federally funded research center that was not in existence before June 2, 1986, until—

Report.

"(A) the head of the agency submits to Congress a report with respect to such center that describes the purpose, mission, and general scope of effort of the center; and

"(B) a period of 60 days beginning on the date such report is received by Congress has elapsed.

10 USC 2302.

"(2) In this subsection, the term 'head of an agency' has the meaning given such term in section 2302(1) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2366 (as added by section 910) the following new item:

"2367. Use of Federally funded research and development centers.".

10 USC 2367 note.

(b) GAO Study.—The Comptroller General shall conduct a study of the national defense role of federally funded research and development centers. Such study shall consider the following:

(1) The effectiveness of procedures in effect on the date of the enactment of this Act in ensuring that such centers are established on the basis of the criteria set forth in Office of Federal Procurement Policy Circular 84-1.

(2) The effectiveness of such procedures in ensuring that work placed with such centers is within the purpose, mission, and general scope of effort of such center as established in the sponsoring agreement with such center.

(3) The growth in the size of such centers during fiscal years 1982 through 1986, measured—

(A) in dollar value of work placed with such centers; and

(B) in man-years of effort required to complete work placed with such centers.

Contracts.

(4) The effect of the exemption of contracts with such centers from the competitive procedures required by section 2304 of title 10, United States Code.

(5) The relationship of such centers to their sponsors.

(c) GAO Report.—(1) The Comptroller General shall submit to Congress a report on the study required by subsection (b). Such report shall include a discussion of each of the matters listed in subsection (b).

(2) The report required by paragraph (1) shall be submitted not later than one year after the date of the enactment of this Act.

Part B—Requirements Relating to the Acquisition Process

SEC. 921. SMALL BUSINESS SET-ASIDES

(a) Proportion of Contracts Set Aside Determined on Industry

CATEGORY BASIS.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) by inserting "in each industry category" in paragraph (3) after "Government", and

(2) by adding at the end the following new sentences: "For purposes of clause (3) of the first sentence of this subsection, an industry category is a discrete group of similar goods and services. Such groups shall be determined by the Administration in accordance with the four-digit standard industrial classification codes contained in the Standard Industrial Classification Manual published by the Office of Management and Budget, except that the Administration shall limit such an industry category to a greater extent than provided under such classification codes if the Administration receives evidence indicating that further segmentation for purposes of this paragraph is warranted due to special capital equipment needs or special labor or geographic requirements or to recognize a new industry. A market for goods or services may not be segmented under the preceding sentence due to geographic requirements unless the Government typically designates the area where work for contracts for such goods or services is to be performed and Government purchases comprise the major portion of the entire domestic market for such goods or services and, due to the fixed location of facilities, high mobilization costs, or similar economic factors, it is unreasonable to expect competition from business concerns located outside of the general areas where such concerns are located.".

100 STAT. 3927

(b) AWARDING OF CONTRACTS AT FAIR MARKET PRICES.—(1) Section 15(a) of such Act (15 U.S.C. 644(a)) is further amended by adding at the end the following new sentence: "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price.".

(2) Section 8(a)(1)(A) of such Act (15 U.S.C. 637(a)(1)(A)) is amended by striking out the semicolon at the end and adding in lieu thereof the following: ". A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price;".

(c) ASSURANCE AS TO COMPOSITION OF LABOR FORCE.—(1) Section 8(a) of such Act (15 U.S.C. 637(a)) is amended by adding at the end the following new paragraph:

"(14)(A) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(i) in the case of a contract for services (except construction), at least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern; and

"(ii) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(B) The Administrator may change the percentage under clause (i) or (ii) of subparagraph (A) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category. A percentage established under the preceding sentence may not differ from a percentage established under section 15(n).

"(C) The Administration shall establish, through public rulemaking, requirements similar to those specified in subparagraph (A) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph. The percentage

100 STAT. 3928 applicable to any such requirement shall be determined in accordance with subparagraph (B), except that such a percentage may not differ from a percentage established under section 15(n) for the same industry category.".

Contracts.

(2) Section 15 of such Act (15 U.S.C 644) is amended by adding at the end the following new subsection:

"(o)(1) A concern may not be awarded a contract under this subsection as a small business concern unless the concern agrees that—

"(A) in the case of a contract for services (except construction), the concern will perform at least 50 percent of the cost of the contract with its own employees; and

"(B) in the case of a contract for procurement of supplies (other than procurement from a regular dealer in such supplies), the concern will perform work for at least 50 percent of the cost of manufacturing the supplies (not including the cost of materials).

"(2) The Administrator may change the percentage under subparagraph (A) or (B) of paragraph (1) if the Administrator determines that such change is necessary to reflect conventional industry practices among business concerns that are below the numerical size standard for businesses in that industry category.

"(3) The Administration shall establish, through public rulemaking, requirements similar to those specified in paragraph (1) to be applicable to contracts for general and specialty construction and to contracts for any other industry category not otherwise subject to the requirements of such subparagraph.".

(d) EXPANSION OF ANNUAL PARTICIPATION GOALS.—Section 15(g) of such Act is amended—

(1) by striking out "having values of $10,000 or more" in the first sentence; and

Disadvantaged persons.

(2) by adding at the end the following: "For the purpose of establishing goals under this subsection, the head of each Federal agency shall make consistent efforts to annually expand participation by small business concerns from each industry category in procurement contracts of the agency, including participation by small business concerns owned and controlled by socially and economically disadvantaged individuals. The head of each Federal agency, in attempting to attain such participation, shall consider—

"(1) contracts awarded as the result of unrestricted competition; and

"(2) contracts awarded after competition restricted to eligible small business concerns under this section and under the program established under section 8(a).".

(e) DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.—Section 15 of such Act is further amended by adding at the end the following new subsection:

"(p)(1) Except as provided in paragraphs (2) and (3), the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of the small business concerns expected to respond to the procurement to any person who requests such information.

Defense and national security.

"(2) The Secretary of Defense may decline to provide information under paragraph (1) in order to protect national security interests.

100 STAT. 3929 "(3) The head of a Federal agency is not required to release any information under paragraph (1) that is not required to be released under section 552 of title 5, United States Code.".

15 USC 632.

(f) REVIEW OF SIZE STANDARDS.—Section 3 of the Small Business Act is amended—

(1) by inserting "(1)" after "SEC. 3. (a)"; and

(2) by adding at the end of subsection (a) the following:

"(2)(A) The Small Business Administration shall establish a program for the review of the size standards for eligibility of business concerns in the industry categories described in subparagraph (B) for a procurement restricted to small business concerns under section 8(a) or 15(a). 15 USC 637, 644.

"(B) Subparagraph (A) shall apply only to business concerns in the following industry categories:

"(i) Construction.

"(ii) Architectural and engineering services (including surveying and mapping services).

"(iii) Ship building and ship repair.

"(iv) Refuse systems and related services.

"(3) If the Administrator determines, on the basis of any such review, that contracts awarded under the set-aside programs under such sections exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined under the last sentence of section 15(a)(3), the Administrator shall adjust the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. Contracts.

"(4)(A) An interested person may petition the Administrator at any time to review an adjustment to a size standard made under paragraph (3) or any designation of an industry category made under section 15(a)(3) if the petitioner presents credible evidence that any such adjustment or designation—

"(i) is not likely to further the purposes of paragraph (3)(A) or section 15(a); and

"(ii) has caused the petitioner to suffer severe financial loss.

"(B) The Administrator shall render a final determination on any petition filed under subparagraph (A) before the end of the 30-day period beginning on the date that such petition is received by the Administration. Such determination shall be reviewable in the manner prescribed in chapter 7 of title 5, United States Code. 5 USC 701 *et seq.*

"(C) The Administrator shall prescribe regulations to carry out the provisions of this subsection. Regulations.

"(5) The Administrator shall conduct a review under the program established under paragraph (2) at least once during every three years. Such review shall be completed and appropriate size standard adjustments made with the expiration of 180 days after each three-year review period.".

(g) EFFECTIVE DATES.—Except as otherwise provided in subsection (h), the amendments made by this section shall take effect on October 1, 1987. 15 USC 632 note.

(h) INITIAL REVIEW OF SIZE STANDARDS.—(1) Paragraph (2) of section 3(a) of the Small Business Act (as added by subsection (f)) shall take effect on the date of the enactment of this Act. 15 USC 632 note.

(2) The first review conducted by the Administrator under such paragraph shall review the periods beginning on October 1, 1983, and ending on September 30, 1986, and shall be completed not later than 180 days after the date of the enactment of this Act.

(3) If the Administrator of the Small Business Administration determines, on the basis of the review referred to in paragraph (2), that contracts awarded under the set-aside programs under sections 8(a) and 15(a) of the Small Business Act in any industry category subject to that review exceed 30 percent of the dollar value of the total contract awards for that industry category, as determined in accordance with the last sentence of section 15(a)(3) of such Act, the Administrator shall propose adjustments to the size standards for such industry category establishing eligibility for a set-aside program to a size that will likely reduce the number of contracts which may be set aside to approximately 30 percent of the value of contracts to be awarded under such sections. The Administrator shall publish such proposed adjustments in the Federal Register for public comment. The Administrator may not issue final regulations Contracts. 15 USC 637, 644. Federal Register, publication.

implementing revised size standards for an industry category under section 3(a)(3) of such Act (as added by subsection (f)) until October 1, 1987.

15 USC 632 note.

(i) **Report on Effect of Amendments Made by This Section.**—(1) The Administrator of the Small Business Administration shall submit to the Committees on Armed Services and the Committees on Small Business of the Senate and House of Representatives a report on the amendments made by this section. The report shall include the Administrator's views on the advisability and feasibility of implementing such amendments.

(2) The report shall also include—

(A) the Administrator's findings and determinations under the review of size standards for businesses that qualify as small businesses carried out pursuant to section 3(a)(2)(B) of the Small Business Act (as amended by subsection (f));

(B) a determination of whether or not the amendments made by subsection (f) will further the interests of the set-aside program; and

(C) recommendations for furthering the interests described in subparagraphs (A) and (B) in a more efficient or more effective manner than provided in such amendments.

(3) In preparing the report required by paragraph (1), the Administrator of the Small Business Administration shall seek the views of all affected agencies of the Government and the views of the public, including the views of business concerns of all sizes and of trade, business, and professional organizations. The views of such agencies, and a summary of the views of the public, shall be included in the report.

(4) The report shall be submitted not later than July 15, 1987.

Contracts.
Illinois.

(j) **Limitation Respecting Great Lakes Naval Training Center.**—Of the total dollar amount of the contracts awarded for fiscal year 1987 for construction and refuse systems and related services at Great Lakes Naval Training Center, Illinois, not more than 30 percent of such dollar amount may be under contracts awarded through the so-called small business set-aside programs under sections 8 and 15 of the Small Business Act.

15 USC 637, 644.

SEC. 922. THRESHOLDS FOR CERTAIN REQUIREMENTS RELATING TO SMALL PURCHASES

(a) **Small Business Act Notice Thresholds.**—Section 8(e)(1) of the Small Business Act (15 U.S.C. 637(e)(1)) is amended—

100 STAT. 3931

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause:

Contracts.

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "subsection (b); and" and inserting in lieu thereof "subsection (f);";

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and "(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(b) OFFICE OF FEDERAL PROCUREMENT POLICY ACT NOTICE THRESHOLDS.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)(A)) is amended—

(1) in subparagraph (A)—

(A) by striking out "$10,000" both places such term appears in and inserting in lieu thereof "$25,000";

(B) by striking out "or" at the end of clause (i);

(C) by striking out the comma at the end of clause (ii) and inserting in lieu thereof "; or";

(D) by inserting after clause (ii) the following new clause: Contracts.

"(iii) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000, if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors,"; and

(E) by striking out "and" at the end;

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation a notice of solicitation described in subsection (f)—

"(i) in the case of an executive agency other than the Department of Defense, if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and

"(ii) in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000; and".

(c) SMALL BUSINESS SET-ASIDES.—The first sentence of section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000".

(d) CONFORMING AMENDMENTS.—(1) Section 8(f) of the Small Business Act is amended by striking out "subsection (e)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (e)(1)". 15 USC 637.

(2) Section 18(b) of the Office of Federal Procurement Policy Act is amended by striking out "subsection (a)(1)(A)" and inserting in lieu thereof "subparagraph (A) or (B) of subsection (a)(1)". 41 USC 416.

SEC. 923. REQUIREMENTS RELATING TO PROCEDURES OTHER THAN COMPETITIVE PROCEDURES

(a) LIMITED SOURCES.—Section 2304(c)(1) of title 10, United States Code, is amended by inserting "or only from a limited number of responsible sources" after "only one responsible source".

(b) UNSOLICITED PROPOSALS FOR SERVICE.—Subparagraph (A) of section 2304(d)(1) of such title is amended by striking out "a unique and innovative concept" and all that follows and inserting in lieu thereof "a concept—

"(i) that is unique and innovative or, in the case of a service, for which the source demonstrates a unique capability of the source to provide the service; and

"(ii) the substance of which is not otherwise available to the United States, and does not resemble the substance of a pending competitive procurement; and".

(c) FOLLOW-ON CONTRACTS.—Subparagraph (B) of such section is amended—

(1) by inserting ", or the continued provision of highly specialized services, such property or services may be deemed to be available only from the original source and may be procured through procedures other than competitive procedures" after "highly specialized equipment";

(2) by inserting a one-em dash after "would result in";

(3) by paragraphing clauses (i) and (ii) and aligning their margins so as to be cut in four ems;

(4) by striking out the comma after "competition" at the end of clause (i) and inserting in lieu thereof a semicolon; and

(5) by striking out ", such property" and all that follows and inserting in lieu thereof a period.

Contracts. 10 USC 2304 note.

(d) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to contracts for which solicitations are issued after the end of the 180-day period beginning on the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply with respect to contracts awarded on the basis of unsolicited research proposals after the end of the 180-day period beginning on the date of the enactment of this Act.

(3) The amendments made by subsection (c) shall apply with respect to follow-on contracts awarded after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 924. EVALUATION FACTORS IN AWARD OF CONTRACTS

(a) EVALUATION FACTORS.—Subsection (a) of section 2305 of title 10, United States Code, is amended—

(1) in paragraph (2)(A)(i)—

100 STAT. 3933

(A) by striking out "(including price)";

(B) by inserting "(including price)" after "sealed bids"; and

(C) by inserting "(including cost or price)" after "competitive proposals"; and

(2) by adding at the end the following new paragraph:

"(3) In prescribing the evaluation factors to be included in each solicitation for competitive proposals, the head of an agency shall clearly establish the relative importance assigned to the quality of the services to be provided (including technical capability, management capability, and prior experience of the offeror).".

(b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting "cost or" in paragraph (4)(B) before "price".

10 USC 2305 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 925. COMPUTATION OF CONTRACT BID PRICES

(a) IN GENERAL.—Section 2301(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) the head of an agency, in issuing a solicitation for a contract to be awarded using sealed-bid procedures, not include in such solicitation a clause providing for the evaluation of prices under the contract for options to purchase additional supplies or services under the contract unless the head of the agency has determined that there is a reasonable likelihood that the options will be exercised.".

10 USC 2301 note.

(b) EFFECTIVE DATE.—Section 2301(a)(7) of title 10, United States Code (as added by subsection (a)), shall not apply to solicitations for sealed bids issued before the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 926. PRICES FOR SPARE OR REPAIR PARTS SOLD COMMERCIALLY

(a) ESTABLISHMENT OF COMMERCIAL PRICING REQUIREMENT.—(1) Section 2323 of title 10, United States Code, is amended to read as follows:

"§ 2323. Commercial pricing for spare or repair parts

"(a) LIMITATION ON PRICE OF COMMERCIALLY AVAILABLE PARTS.— Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), if the head of an agency, using procedures other than competitive procedures, enters into a contract with a contractor for the purchase of spare or repair parts which the contractor also offers for sale to the general public, the price charged the United States for such parts under the contract may not exceed the lowest commercial price charged by the contractor in sales of such parts during a period described in subsection (b)(1). Contracts.

"(b) REQUIREMENTS FOR INCLUSION IN OFFER.—The head of an agency, with respect to an offeror who submits an offer to the head of an agency to enter into a contract for the supply of spare or repair parts under a contract awarded using procedures other than competitive procedures, and who also offers such parts for sale to the general public, shall require that the offeror— 100 STAT. 3934

"(1) certify in such offer that, to the best of the knowledge and belief of the offeror, the price proposed in the offer does not exceed the lowest commercial price at which such offeror sold such parts during the most recent regular monthly, quarterly, or other period for which sales data are reasonably available; or

"(2) submit with such offer a written statement—

"(A) specifying the amount of the difference between the price proposed in the offer and the lowest commercial price at which such offeror sold such parts during a period described in paragraph (1); and

"(B) providing a justification for that difference.

"(c) EXCEPTION TO LIMITATION.—Subsections (a) and (b) do not apply in the case of a contract with respect to which the contracting officer includes in the file on the contract a written determination by such officer that the use of the lowest commercial price with respect to such contract is not appropriate because of—

"(1) national security considerations; or

"(2) significant differences between the terms of the commercial sales of the parts to be acquired under such contract and the terms of such contract, including differences in—

"(A) quantity;

"(B) quality;

"(C) delivery requirements; or

"(D) other terms and conditions.

"(d) AUDITING.—(1) In order to verify any certification or statement made under subsection (b) with respect to a contract, the contracting officer who awards such contract (or any representative of the contracting officer who is an employee of the United States or a member of the armed forces), during the time period specified in paragraph (2), may examine and audit all records of sales (including contract terms and conditions) maintained by or for the contractor that are directly pertinent to sales by the contractor of spare or repair parts identical to those covered by the contract during the period covered by such certification or statement.

"(2) The head of an agency shall require an offeror who submits a certification or written statement under subsection (b) to make available the records, books, data, and documents described in paragraph (1) for examination, audit, or reproduction for the purposes of such paragraph during the three-year period beginning on the date that the offeror submits such certification or statement to such head of an agency.

"(3) The authority provided by this subsection is in addition to the authority of the head of an agency under section 2306a of this title. *Post*, p. 3946.

"(e) REGULATIONS.—The Secretary of Defense, after consultation with the Secretary of Transportation and the Administrator of the National Aeronautics and Space Administration, shall prescribe regulations to carry out this section. Such regulations may not require the disclosure or submission of any data related to any element underlying the price of a commercial product not otherwise required by law.

"(f) DEFINITIONS.—In this section:

"(1) The term 'spare or repair part' means any individual piece, part, subassembly, or component which is furnished for the logistic support or repair of an end item and not as an end item itself.

"(2) The term 'lowest commercial price' means the lowest price at which a sale was made to the general public of a particular part. Such term does not include the price at which a sale was made—

"(A) to any agency of the United States;

"(B) to any person for resale by such person after such person performs a service or function in connection with such part that increases the cost of the part, unless the agency procuring the part can demonstrate that the agency is procuring the part before such service or function has been performed by any such person;

"(C) to a subsidiary, affiliate, or parent business organization of the contractor, or any other branch of the same business entity;

"(D) to any person at a price that, for the purpose of making a donation, has been substantially discounted below the fair market value or regular price of such part; or

"(E) to a customer located outside the United States.

"(g) APPLICABILITY.—This section does not apply to a contract entered into using simplified small purchase procedures established under section 2304(g) of this title.".

(2) The item relating to section 2323 at the beginning of chapter 137 is amended to read as follows:

"2323. Commercial pricing for spare or repair parts.".

10 USC 2323 note.

(b) EFFECTIVE DATE.—Regulations prescribed under section 2323(e) of title 10, United States Code (as amended by subsection (a)(1)), shall take effect on the date of the enactment of this Act.

SEC. 927. ALLOCATION OF OVERHEAD TO PARTS TO WHICH CONTRACTOR HAS ADDED LITTLE VALUE

(a) IN GENERAL.—Section 2304 of title 10, United States Code, is amended by adding at the end the following new subsection:

Regulation.

"(i)(1) The Secretary of Defense shall prescribe by regulation the manner in which the Department of Defense negotiates prices for supplies to be obtained through the use of procedures other than competitive procedures, as defined in section 2302(2) of this title.

"(2) The regulations required by paragraph (1) shall—

"(A) specify the incurred overhead a contractor may appropriately allocate to supplies referred to in that paragraph; and

"(B) require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value.

"(3) Such regulations shall not apply to an item of supply included in a contract or subcontract for which the price is based on established catalog or market prices of commercial items sold in substantial quantities to the general public.".

10 USC 2304 note.

(b) DEADLINE.—The Secretary of Defense shall prescribe the regulations required by section 2304(i) of such title (as added by subsection (a)) not later than 180 days after the date of the enactment of this Act.

(c) REPEAL.—Section 1245 of the Department of Defense Authorization Act, 1985 (Public Law 98-525, 98 Stat. 2609), is repealed.

SEC. 928. CLARIFICATION OF REQUIREMENTS TO MARK SUPPLIES TO IDENTIFY SUPPLIERS AND SOURCES

100 STAT. 3936

(a) EXCEPTION FOR CERTAIN COMMERCIAL ITEMS.—Section 2384(b) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)";

(3) by inserting "(other than a contract described in paragraph (2))" after "delivery of supplies"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) does not apply to a contract that requires the delivery of supplies that are commercial items sold in substantial quantities to the general public if the contract— Contracts.

"(A) provides for the acquisition of such supplies by the Department of Defense at established catalog or market prices; or

"(B) is awarded through the use of competitive procedures.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2384 note.

PART C—PROCUREMENT PERSONNEL POLICY

SEC. 931. CONFLICT-OF-INTEREST IN DEFENSE PROCUREMENT

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2397a the following new sections:

"§ 2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors 10 USC 2397b.

"(a)(1) Subject to subsections (c) and (d), a person who is a former officer or employee of the Department of Defense or a former or retired member of the armed forces may not accept compensation from a contractor during the two-year period beginning on the date of such person's separation from service in the Department of Defense if— Contracts.

"(A) on a majority of the person's working days during the two-year period ending on the date of such person's separation from service in the Department of Defense, the person performed a procurement function (relating to a contract of the Department of Defense) at a site or plant that is owned or operated by the contractor and that was the principal location of such person's performance of that procurement function;

"(B) the person performed, on a majority of the person's working days during such two-year period, procurement functions relating to a major defense system and, in the performance of such functions, participated personally and substantially, and in a manner involving decisionmaking responsibilities, with respect to a contract for that system through contact with the contractor; or

"(C) during such two-year period the person acted as a primary representative of the United States—

"(i) in the negotiation of a Department of Defense contract in an amount in excess of $10,000,000 with the contractor; or

100 STAT. 3937

"(ii) in the negotiation of a settlement of an unresolved claim of the contractor in an amount in excess of $10,000,000 under a Department of Defense contract.

"(2) In the application of paragraph (1) to a former officer or employee of the Department of Defense or a former or retired member of the armed forces, a person's status as a contractor shall be determined as of the date of the separation from service in the Department of Defense of the officer or employee or member or former member involved.

"(b)(1) Any person who knowingly violates subsection (a)(1) shall be subject to a civil fine, in an amount not to exceed $250,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(2) Any person who knowingly offers or provides any compensation to another person, and who knew or should have known that the acceptance of such compensation is or would be in violation of subsection (a)(1), shall be subject to a civil fine, in an amount not to exceed $500,000, in a civil action brought by the United States in the appropriate district court of the United States.

"(c) This section does not apply to any person with respect to—

"(1) duties described in clause (A) or (B) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for grade GS-13 of the General Schedule; or

5 USC 5332.

"(B) as a member of the armed forces in a pay grade below pay grade O-4; or

"(2) duties described in clause (C) of subsection (a)(1) which were performed while such person was serving—

"(A) in a civilian position for which the rate of pay is less than the minimum rate of pay payable for a Senior Executive Service position; or

"(B) as a member of the armed forces in a pay grade below pay grade O-7.

"(d) This section does not prohibit any person from accepting compensation from any contractor that, during the fiscal year preceding the fiscal year in which such compensation is accepted, was not a Department of Defense contractor or was a contractor under Department of Defense contracts in a total amount less than $10,000,000.

"(e)(1) Any person may, before accepting any compensation, request the appropriate designated agency ethics official to advise such person on the applicability of this section to the acceptance of such compensation. For purposes of the preceding sentence, the appropriate designated agency ethics official is the designated agency ethics official of the agency in which such person was serving at the time such person separated from service in the Department of Defense.

"(2) A request for advice under paragraph (1) shall contain all information that is relevant to a determination by the designated agency ethics official on such request.

"(3) Not later than 30 days after the date on which a designated agency ethics official receives a request for advice under paragraph (1), such official shall issue a written opinion on the applicability of this section to the acceptance of compenstion covered by the request.

"(4) If a designated agency ethics official, on the basis of a complete disclosure as required by paragraph (2), states in a written opinion furnished to any person under this subsection that this section is inapplicable to the acceptance of compensation by such person from a contractor in a particular case, there shall be a conclusive presumption in favor of such person, for the purposes of this section, that the person's acceptance of such compensation in such case is not a violation of subsection (a)(1).

100 STAT. 3938

"(f) In this section:

"(1) The term 'compensation' includes any payment, gift, benefit, reward, favor, or gratuity—

"(A) which is provided, directly or indirectly, for services rendered by the person accepting such payment, gift, benefit, reward, favor, or gratuity; and

"(B) which is valued in excess of $250 at the prevailing market price.

"(2)(A) The term 'contractor' means a person—

"(i) that contracts to supply the Department of Defense with goods or services;

"(ii) that controls or is controlled by a person described in clause (i); or

"(iii) that is under common control with a person described in clause (i).

"(B) Such term does not include—

"(i) an affiliate or subsidiary of a person described in subparagraph (A) that is clearly not engaged in the performance of a Department of Defense contract; or

"(ii) a State or local government.

"(3) The term 'procurement function' includes, with respect to a contract, any function relating to—

"(A) the negotiation, award, administration, or approval of the contract;

"(B) the selection of a contractor;

"(C) the approval of changes in the contract;

"(D) quality assurance, operational and developmental testing, the approval of payment, or auditing under the contract; or

"(E) the management of the procurement program.

"(4) The term 'armed forces' does not include the Coast Guard.

"(5) The term 'major defense system' has the meaning given the term 'major system' in section 2302(5) of this title.

"(g) For the purposes of this section, a person who is a retired member or a former member of the armed forces shall be considered to have been separated from service in the Department of Defense upon the date of the person's discharge or release from active duty.

"§ 2397c. Defense contractors: requirements concerning former Department of Defense officials 10 USC 2397c.

"(a)(1) Each contract for the procurement of goods or services in excess of $100,000 entered into by the Department of Defense shall include a provision under which the contractor agrees not to provide compensation to a person if the acceptance of such compensation by such person would violate section 2397b(a)(1) of this title. *Ante*, p. 3936.

"(2) Such a contract shall also provide that if the contractor knowingly violates a contract provision required by paragraph (1) the contractor shall pay to the United States, as liquidated damages under the contract, an amount equal to the greater of—

"(A) $100,000; or

"(B) three times the amount of the compensation paid by the contractor to the person in violation of such contract provision.

"(b)(1)(A) Any contractor that was awarded one or more contracts by the Department of Defense during the preceding fiscal year in an aggregate amount of at least $10,000,000 that is subject during a calendar year to a contract provision described in subsection (a) shall submit to the Secretary of Defense, not later than April 1 of the next year, a written report covering the preceding calendar year. Each such report shall list the name of each person (together with other information adequate for the Government to identify the person) who— Report.

"(i) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces; and

"(ii) during the preceding calendar year was provided compensation by that contractor, if such compensation was provided within two years after such officer, employee, or member left service in the Department of Defense.

"(B) In the case of each person named in a report submitted under subparagraph (A), the report shall—

"(i) identify the agency in which the person was employed or served on active duty during the last two years of the person's service with the Department of Defense;

"(ii) state the person's job title and identify each major defense system, if any, on which the person performed any work with the Department of Defense during the last two years of the person's service with the Department;

"(iii) contain a complete description of any work that the person is performing on behalf of the contractor; and

"(iv) identify each major defense system on which the person has performed any work on behalf of the contractor.

"(2) A person who knowingly fails to file a report required by paragraph (1) shall be subject to an administrative penalty, not to exceed $10,000, imposed by the Secretary of Defense after an opportunity for an agency hearing on the record pursuant to regulations prescribed by the Secretary of Defense. The determinations of the Secretary shall be included in such record. The determinations of the Secretary shall be subject to judicial review under chapter 7 of title 5.

5 USC 701 *et seq.*

"(3) The Secretary of Defense shall review each report under paragraph (1) for the purposes of (A) assessing the accuracy and completeness of the report, and (B) identifying possible violations of section 2397b(a)(1) of this title or of a contract provision required by subsection (a). The Secretary shall report any such possible violation to the Attorney General.

Ante, p. 3936.

"(4) The Secretary shall make reports submitted under this subsection available to any Member of Congress upon request.

"(d) Subsection (g) of section 2397b of this title, and the definitions prescribed in subsection (f) of such section, apply to this section.".

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by inserting after the item relating to section 2397a the following new items:

"2397b. Certain former Department of Defense procurement officials: limitations on employment by contractors.

"2397c. Defense contractors: requirements concerning former Department of Defense officials.".

100 STAT. 3940

(b) Repeal.—Section 921 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 10 U.S.C. 2397a note) is repealed.

10 USC 2397b note.

(c) Effective Dates.—(1) Subject to paragraph (2), this section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by this section—

(i) do not preclude the continuation of employment that began before the effective date of this section or the acceptance of compensation for such employment; and

(ii) do not, except as provided in subparagraph (B), apply to a person whose service in the Department of Defense terminates before the effective date of this section.

(B) Subparagraph (A)(ii) does not preclude the application of the amendments made by this section to a person with respect to service in the Department of Defense by such person on or after the effective date of this section.

10 USC 1621 note.

SEC. 932. PLAN FOR ENHANCEMENT OF PROFESSIONALISM OF ACQUISITION PERSONNEL

(a) Development of Plan.—The Secretary of Defense shall develop a plan for a personnel initiative designed to enhance the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(b) Requirements for Plan.—The plan required to be developed under subsection (a) shall—

(1) include standards for the examination, appointment, classification, training, and assignment of acquisition personnel; and

(2) assess the feasibility and desirability of—

(A) the designation of certain acquisition positions of the Department of Defense as professional positions; and

(B) the establishment of an alternative personnel system that would—

(i) include acquisition positions that are designated as professional positions; and

(ii) include quality of performance as a factor in promotions for persons in such positions.

(c) Report.—(1) The Secretary shall submit to Congress a report—

(A) describing the plan developed under subsection (a); and

(B) recommending any changes in existing law that would facilitate the enhancement of the professionalism of, and career opportunities available to, acquisition personnel of the Department of Defense.

(2) The report required by subparagraph (A) shall be submitted not later than April 15, 1987.

(d) Effective Date.—The report required by subsection (c) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 933. EDUCATIONAL REQUIREMENTS FOR ACQUISITION PERSONNEL

Section 1622(b)(1) of title 10, United States Code, is amended by striking out "attended" and inserting in lieu thereof "completed".

SEC. 934. PLAN FOR COORDINATION OF DEFENSE ACQUISITION EDUCATIONAL PROGRAMS

10 USC 1621 note.

Report.

(a) Coordination Plan.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for the coordination of educational programs managed by the Department of Defense for acquisition personnel of the Department.

(b) Requirements for Plan.—The plan required by subsection (a) shall provide for—

(1) the education of acquisition personnel of the Department of Defense through programs offered by the Department or through educational courses offered by organizations other than the Department;

(2) the education of acquisition personnel of the Department in various acquisition specialties, including contracting, logistics, quality, program management, systems engineering, production, and manufacturing; and

(3) the elimination of duplication of functions and courses by schools of the Department that provide educational courses for acquisition personnel of the Department.

(c) Effective Date.—The report required by subsection (a) shall be submitted not later than the end of the one-year period beginning on the date of the enactment of this Act.

Part D—Requirements Relating to Defense Contractors

SEC. 941. CODIFICATION AND EXTENSION OF PROHIBITION ON PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES AND RELATED CRIMINAL PENALTY ON DEFENSE CONTRACTORS

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors

10 USC 2408.

"(a) Prohibition.—A person who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from working in a management or supervisory capacity on any defense contract, or serving on the board of directors of any defense contractor, for a period, as determined by the Secretary of Defense, of not less than one year from the date of the conviction.

"(b) Criminal Penalty.—A defense contractor shall be subject to a criminal penalty of not more than $500,000 if such contractor is convicted of knowingly—

"(1) employing a person under a prohibition under subsection (a); or

"(2) allowing such a person to serve on the board of directors of such contractor.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

100 STAT. 3942

"2408. Prohibition on persons convicted of defense-contract related felonies and related criminal penalty on defense contractors.".

10 USC 2304 note.

(b) Conforming Amendment.—Section 932 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 699) is repealed.

10 USC 2408 note.

(c) Effective Date.—Section 2408 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to employment or service on a board of directors after the date of the enactment of this Act.

SEC. 942. PROTECTION OF CONTRACTOR EMPLOYEES FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

(a) In General.—(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2408 (as added by section 941) the following new section:

10 USC 2409.

"§ 2409. Contractor employees: protection from reprisal for disclosure of certain information

"(a) Prohibition of Reprisals.—An employee of a defense contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a Member of Congress or an authorized official of the Department of Defense or the Department of Justice information relating to a substantial violation of law related to a defense contract (including the competition for or negotiation of a defense contract).

Report.

"(b) Investigation of Complaints.—A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense. Unless the Inspector General determines that the complaint is frivolous, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor concerned, and the Secretary of Defense.

Discrimination, prohibition.

"(c) Construction.—Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2408 (as added by section 941) the following new item:

"2409. Contractor employees: protection from reprisal for disclosure of certain information.".

10 USC 2409 note.

(b) Effective Date.—Section 2409 of title 10, United States Code (as added by subsection (a)(1)), shall apply with respect to any reprisal action taken on or after the date of the enactment of this Act.

SEC. 943. REVISION OF WORK MEASUREMENT PROVISIONS

(a) In General.—(1) Section 2406 of title 10, United States Code, is amended to read as follows:

"§ 2406. Availability of cost and pricing records

"(a) Requirement.—(1) The head of an agency shall require a contractor under a covered contract with that agency to make available in a timely manner to any authorized representative of the head of the agency records of the contractor's cost and pricing data described in subsection (b) with respect to work under the covered contract.

Contracts.

100 STAT. 3943

"(2) The head of the agency (or the representative of the head of the agency) shall be entitled to have access to records in the form and manner maintained by the contractor.

"(b) Covered Records.—Records covered by subsection (a) include (for a covered contract and end items under such a contract) the following:

"(1) Work measurement system data (and any revision to such data), including records of labor content expressed in standard hours of work content for—

(A) the contractor's proposal for the contract; and

(B) the contract as negotiated.

"(2) The costs described in subsection (c)—

"(A) as proposed by the contractor;

"(B) as negotiated by the contractor with the head of the agency; and

"(C) as incurred by the contractor.

"(3) Bills of material.

"(c) Covered Costs.—Costs referred to in subsection (b)(2) are—

"(1) labor costs;

"(2) material costs;

"(3) subcontract costs;

"(4) overhead costs;

"(5) general and administrative costs; and

"(6) fee or profit.

"(d) Nature of Records To Be Maintained.—Nothing in this section shall require a contractor under a covered contract to—

"(1) collect or maintain additional data not otherwise collected or maintained by the contractor, or

"(2) maintain data in a form or manner different from that in which the contractor maintains such data.

"(e) Regulations.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall specify the period for which records shall be covered by this section, which shall not be less than three years after final payment under the contract to which the records pertain.

"(f) Definitions.—In this section:

"(1) The term 'head of an agency' means the Secretary of Defense or the Secretary of a military department.

"(2) The term 'covered contract' means a manufacturing contract—

"(A) that is awarded under a major defense acquisition program (as such term is defined in 2432(a) of this title); and

10 USC 2432.

"(B) that is subject to the provisions of section 2306a of this title.

Post, p. 3946.

"(3) The term 'work measurement system data' means—

"(A) data generated from time standard setting, time monitoring, and variance analysis; and

"(B) such data described in subparagraph (A) as included in planning, cost estimating, and productivity improvement.

"(4) The term 'authorized representative' means a representative of the head of an agency who is an employee of the United States or a member of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2406. Availability of cost and pricing records.".

10 USC 2406 note.

(b) APPLICABILITY OF SECTION.—Section 2406 of title 10, United States Code, as amended by subsection (a), shall apply with respect to—

(1) contracts entered into on or after the date of the enactment of this Act; and

(2) contracts entered into before such date that are not completed before such date.

10 USC 2406 note.

(c) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe regulations as required by section 2406(e) of title 10, United States Code (as amended by subsection (a)(1)), not later than the end of the 180-day period beginning on the date of the enactment of this Act.

PART E—MISCELLANEOUS

SEC. 951. CONTRACTING WITH FIRMS OWNED OR CONTROLLED BY GOVERNMENTS THAT SUPPORT TERRORISM

(a) CONSIDERATION OF NATIONAL INTERESTS WITH RESPECT TO DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding after the item relating to section 2326 (as added by section 908) the following new section:

10 USC 2327.

"§ 2327. Contracts: consideration of national security objectives

"(a) DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT.—The head of an agency shall require a firm or a subsidiary of a firm that submits a bid or proposal in response to a solicitation issued by the Department of Defense to disclose in that bid or proposal any significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary) that is owned or controlled (whether directly or indirectly) by a foreign government or an agent or instrumentality of a foreign government, if such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(b) PROHIBITION ON ENTERING INTO CONTRACTS AGAINST THE INTERESTS OF THE UNITED STATES.—Except as provided in subsection (c), the head of an agency may not enter into a contract with a firm or a subsidiary of a firm if—

"(1) a foreign government owns or controls (whether directly or indirectly) a significant interest in such firm or subsidiary (or, in the case of a subsidiary, in the firm that owns the subsidiary); and

"(2) such foreign government is the government of a country that the Secretary of State determines under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 2405(j)(1)(A)) has repeatedly provided support for acts of international terrorism.

"(c) WAIVER.—(1)(A) If the Secretary of Defense determines under paragraph (2) that entering into a contract with a firm or a subsidiary of a firm described in subsection (b) is not inconsistent with the national security objectives of the United States, the head of an agency may enter into a contract with such firm or subsidiary after the date on which such head of an agency submits to Congress a report on the contract.

"(B) A report under subparagraph (A) shall include the following:

"(i) The identity of the foreign government concerned.

"(ii) The nature of the contract.

"(iii) The extent of ownership or control of the firm or subsidiary concerned (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government concerned or the agency or instrumentality of such foreign government.

"(iv) The reasons for entering into the contract.

"(C) After the head of an agency submits a report to Congress under subparagraph (A) with respect to a firm or a subsidiary, such head of an agency is not required to submit a report before entering into any subsequent contract with such firm or subsidiary unless the information required to be included in such report under subparagraph (B) has materially changed since the submission of the previous report.

Defense and national security.

"(2) Upon the request of the head of an agency, the Secretary of Defense shall determine whether entering into a contract with a firm or subsidiary described in subsection (b) is inconsistent with the national security objectives of the United States. In making such a determination, the Secretary of Defense shall consider the following:

"(A) The relationship of the United States with the foreign government concerned.

International agreements.

"(B) The obligations of the United States under international agreements.

"(C) The extent of the ownership or control of the firm or subsidiary (or, if appropriate in the case of a subsidiary, of the firm that owns the subsidiary) by the foreign government or an agent or instrumentality of the foreign government.

"(D) Whether payments made, or information made available, to the firm or subsidiary under the contract could be used for purposes hostile to the interests of the United States.

"(d) Applicability.—This section does not apply to a contract for an amount less than $100,000.

"(2) This section does not apply to the Coast Guard or the National Aeronautics and Space Administration.

"(e) Regulations.—The Secretary of Defense, after consultation with the Secretary of State, shall prescribe regulations to carry out this section. Such regulations shall include a definition of the term 'significant interest'.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2326 (as added by section 908) the following new item:

"2327. Contracts: consideration of national security objectives.".

(b) Conforming Amendment.—Section 503 of the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 708) is repealed.

10 USC 2327 note.

(c) Effective Date.—Section 2327 of title 10, United States Code (as added by subsection (a)(1)), shall apply to contracts entered into by the Secretary of Defense after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 952. TRUTH-IN-NEGOTIATIONS ACT AMENDMENTS

(a) Strengthening of Prevention of Unearned and Excessive Contractor Profits.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2306 the following new section: 100 STAT. 3946

Contracts. 10 USC 2306a.

"§ 2306a. Cost or pricing data: truth in negotiations

"(a) Required Cost or Pricing Data and Certification.—(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

"(A) An offeror for a prime contract under this chapter to be entered into using procedures other than sealed-bid procedures shall be required to submit cost or pricing data before the award of the contract if the price of the contract to the United States is expected to exceed $100,000.

"(B) The contractor for a contract under this chapter shall be required to submit cost or pricing data before the pricing of a change or modification to the contract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(C) An offeror for a subcontract (at any tier) of a contract under this chapter shall be required to submit cost or pricing data before the award of the subcontract if—

"(i) the price of the subcontract is expected to exceed $100,000; and

"(ii) the prime contractor and each higher-tier subcontractor have been required to make available cost or pricing data under this section.

"(D) The subcontractor for a subcontract covered by subparagraph (C) shall be required to submit cost or pricing data before the pricing of a change or modification to the subcontract if the price adjustment is expected to exceed $100,000 (or such lesser amount as may be prescribed by the head of the agency).

"(2) A person required, as an offeror, contractor, or subcontractor, to submit cost or pricing data under paragraph (1) (or required by the head of the agency concerned to submit such data under subsection (c)) shall be required to certify that, to the best of the person's knowledge and belief, the cost or pricing data submitted are accurate, complete, and current.

"(3) Cost or pricing data required to be submitted under paragraph (1) (or under subsection (c)), and a certification required to be submitted under paragraph (2), shall be submitted—

"(A) in the case of a submission by a prime contractor (or an offeror for a prime contract), to the contracting officer for the contract (or to a designated representative of the contracting officer); or

"(B) in the case of a submission by a subcontractor (or an offeror for a subcontract), to the prime contractor.

"(4) Except as provided under subsection (b), this section applies to contracts entered into by the head of an agency on behalf of a foreign government.

"(5) The head of the agency may waive the requirement under this subsection for a contractor, subcontractor, or offeror to submit cost or pricing data. For purposes of paragraph (1)(C)(ii), a contractor or subcontractor granted such a waiver shall be considered as having been required to make available cost or pricing data under this section.

"(b) EXCEPTIONS.—This section need not be applied to a contract or subcontract—

"(1) for which the price agreed upon is based on—

100 STAT. 3947

"(A) adequate price competition;

"(B) established catalog or market prices of commercial items sold in substantial quantities to the general public; or

"(C) prices set by law or regulation; or

"(2) in an exceptional case when the head of the agency determines that the requirements of this section may be waived and states in writing his reasons for such determination.

"(c) AUTHORITY TO REQUIRE COST OR PRICING DATA.—When cost or pricing data are not required to be submitted by subsection (a), such data may nevertheless be required to be submitted by the head of the agency if the head of the agency determines that such data are necessary for the evaluation by the agency of the reasonableness of the price of the contract or subcontract.

"(d) PRICE REDUCTIONS FOR DEFECTIVE COST OR PRICING DATA.—(1)(A) A prime contract (or change or modification to a prime contract) under which a certificate under subsection (a)(2) is required shall contain a provision that the price of the contract to the United States, including profit or fee, shall be adjusted to exclude any significant amount by which it may be determined by the head of the agency that such price was increased because the contractor (or any subcontractor required to make available such a certificate) submitted defective cost or pricing data.

"(B) For the purposes of this section, defective cost or pricing data are cost or pricing data which, as of the date of agreement on the price of the contract (or another date agreed upon between the parties), were inaccurate, incomplete, or noncurrent. If for purposes of the preceding sentence the parties agree upon a date other than the date of agreement on the price of the contract, the date agreed upon by the parties shall be as close to the date of agreement on the price of the contract as is practicable.

"(2) In determining for purposes of a contract price adjustment under a contract provision required by paragraph (1) whether, and to what extent, a contract price was increased because the contractor (or a subcontractor) submitted defective cost or pricing data, it shall be a defense that the United States did not rely on the defective data submitted by the contractor or subcontractor.

"(3) It is not a defense to an adjustment of the price of a contract under a contract provision required by paragraph (1) that—

"(A) the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted by the contractor or subcontractor because the contractor or subcontractor—

"(i) was the sole source of the property or services procured; or

"(ii) otherwise was in a superior bargaining position with respect to the property or services procured;

"(B) the contracting officer should have known that the cost and pricing data in issue were defective even though the contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the contracting officer;

"(C) the contract was based on an agreement between the contractor and the United States about the total cost of the contract and there was no agreement about the cost of each item procured under such contract; or

"(D) the prime contractor or subcontractor did not submit a certification of cost and pricing data relating to the contract as required under subsection (a)(2). 100 STAT. 3948

"(4)(A) A contractor shall be allowed to offset an amount against the amount of a contract price adjustment under a contract provision required by paragraph (1) if—

"(i) the contractor certifies to the contracting officer (or to a designated representative of the contracting officer) that, to the best of the contractor's knowledge and belief, the contractor is entitled to the offset; and

"(ii) the contractor proves that the cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted as specified in subsection (a)(3) before such date.

"(B) A contractor shall not be allowed to offset an amount otherwise authorized to be offset under subparagraph (A) if—

"(i) certification under subsection (a)(2) with respect to the cost or pricing data involved was known to be false when signed; or

"(ii) the United States proves that, had the cost or pricing data referred to in subparagraph (A)(ii) been submitted to the United States before the date of agreement on the price of the contract (or price of the modification), the submission of such cost or pricing data would not have resulted in an increase in that price in the amount to be offset.

"(e) INTEREST AND PENALTIES FOR CERTAIN OVERPAYMENTS.—(1) If the United States makes an overpayment to a contractor under a contract with the Department of Defense subject to this section and the overpayment was due to the submission by the contractor of defective cost or pricing data, the contractor shall be liable to the United States—

"(A) for interest on the amount of such overpayment, to be computed—

"(i) for the period beginning on the date the overpayment was made to the contractor and ending on the date the contractor repays the amount of such overpayment to the United States; and

"(ii) at the current rate prescribed by the Secretary of the Treasury under section 6621 of the Internal Revenue Code of 1954; and

Ante, p. 2095. 26 USC 6621.

"(B) if the submission of such defective data was a knowing submission, for an additional amount equal to the amount of the overpayment.

"(2) Except as provided under subsection (d), the liability of a contractor under this subsection shall not be affected by the contractor's refusal to submit a certification under subsection (a)(2) with respect to the cost or pricing data involved.

"(f) RIGHT OF UNITED STATES TO EXAMINE CONTRACTOR RECORDS.—(1) For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this section with respect to a contract or subcontract, the head of the agency, acting through any authorized representative of the head of the agency who is an employee of the United States or a member of the armed forces, shall have the right to examine all records of the contractor or subcontractor related to—

"(A) the proposal for the contract or subcontract;

"(B) the discussions conducted on the proposal;

"(C) pricing of the contract or subcontract; or

"(D) performance of the contract or subcontract.

"(2) The right of the head of an agency under paragraph (1) shall expire three years after final payment under the contract or subcontract.

"(3) In this subsection, the term 'records' includes books, documents, and other data.

"(g) COST OR PRICING DATA DEFINED.—In this section, the term 'cost or pricing data' means all information that is verifiable and that, as of the date of agreement on the price of a contract (or the price of a contract modification), a prudent buyer or seller would reasonably expect to affect price negotiations significantly. Such term does not include information that is judgmental, but does include the factual information from which a judgment was derived.".

10 USC 2306.

(b) CONFORMING AMENDMENTS.—(1) Subsection (f) of section 2306 of such title is amended to read as follows:

"(f) So-called 'truth-in-negotiations' provisions relating to cost or pricing data to be submitted by certain contractors and subcontractors are provided in section 2306a of this title.".

Ante, p. 3946.

10 USC 2304 note.

(2) Section 934(a) of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 2306 of title 10, United States Code, is amended to read as follows:

"§ 2306. Kinds of contracts".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2306 and inserting in lieu thereof the following:

"2306. Kinds of contracts.

"2306a. Cost or pricing data: truth in negotiations.".

10 USC 2306a note.

(d) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), section 2306a of title 10, United States Code (as added by subsection (a)), and the amendment and repeal made by subsection (b), shall apply with respect to contracts or modifications on contracts entered into after the end of the 120-day period beginning on the date of the enactment of this Act.

(2) Subsection (e) of such section shall apply with respect to contracts or modifications on contracts entered into after November 7, 1985.

SEC. 953. RIGHTS IN TECHNICAL DATA

(a) Rights in Technical Data.—Subsection (a) of section 2320 of title 10, United States Code, is amended to read as follows:

Regulations.

"(a)(1) The Secretary of Defense shall prescribe regulations to define the legitimate interest of the United States and of a contractor or subcontractor in technical data pertaining to an item or process. Such regulations shall be included in regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation. Such regulations may not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in technical data otherwise established by law.

"(2) Such regulations shall include the following provisions:

"(A) In the case of an item or process that is developed by a contractor or subcontractor exclusively with Federal funds, the United States shall have the unlimited right to—

100 STAT. 3950

"(i) use technical data pertaining to the item or process; or

"(ii) release or disclose the technical data to persons outside the government or permit the use of the technical data by such persons.

"(B) Except as provided in subparagraphs (C) and (D), in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to release or disclose technical data pertaining to the item or process to persons outside the government or permit the use of the technical data by such persons.

"(C) Subparagraph (B) does not apply to technical data that—

"(i) constitutes a correction or change to data furnished by the United States;

"(ii) relates to form, fit, or function;

"(iii) is necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

"(iv) is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restriction on further release or disclosure.

"(D) Notwithstanding subparagraph (B), the United States may release or disclose technical data to persons outside the Government, or permit the use of technical data by such persons, if—

"(i) such release, disclosure, or use—

"(I) is necessary for emergency repair and overhaul; or

"(II) is a release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the United States and is required for evaluational or informational purposes;

(ii) such release, disclosure, or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose, or use such data; and

"(iii) the contractor or subcontractor asserting the restriction is notified of such release, disclosure, or use.

"(E) In the case of an item or process that is developed in part with Federal funds and in part at private expense, the respective rights of the United States and of the contractor or subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable (preferably during contract negotiations), based upon consideration of all of the following factors:

"(i) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(ii) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture. 100 STAT. 3951

"(iii) The interest of the United States in encouraging contractors to develop at private expense items for use by the Government.

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except—

"(i) rights in technical data described in subparagraph (C); or

"(ii) under the conditions described in subparagraph (D).

"(G) The Secretary of Defense may—

"(i) negotiate and enter into a contract with a contractor or subcontractor for the acquisition of rights in technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense if necessary to develop alternative sources of supply and manufacture; or

"(ii) agree to restrict rights of the United States in technical data pertaining to an item or process developed entirely or in part with Federal funds if the United States receives a royalty-free license to use, release, or disclose the data for purposes of the United States (including purposes of competitive procurement).

"(3) The Secretary of Defense shall define the terms 'developed' and 'private expense' in regulations prescribed under paragraph (1).

"(4) For purposes of this subsection, the term 'Federal Acquisition Regulation' means the single system of Government-wide procurement regulations as defined in section 4(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)).".

(b) VALIDATION OF PROPRIETARY DATA RESTRICTIONS.—Subsections (a) and (b) of section 2321 of title 10, United States Code, are amended to read as follows:

"(a) A contract for supplies or services entered into by the Department of Defense which provides for the delivery of technical data shall provide that a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data.

"(b)(1) The Secretary of Defense shall ensure that there is a thorough review of the appropriateness of any restriction on the right of the United States to release or disclose technical data delivered under a contract to persons outside the Government, or to permit the use of such technical data by such persons. Such review shall be conducted before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later.

"(2)(A) If the Secretary determines, at any time before the end of the three-year period beginning on the date on which final payment is made on a contract under which technical data is required to be delivered, or the date on which the technical data is delivered under such contract, whichever is later, that a challenge to a restriction is warranted, the Secretary shall provide written notice to the contractor or subcontractor asserting the restriction. Such a determination shall be based on a finding by the Secretary that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time. Such notice shall—

"(i) state the specific grounds for challenging the asserted restriction;

"(ii) require a response within 60 days justifying the current validity of the asserted restriction; and

"(iii) state that evidence of a validation by the Department of Defense of a restriction identical to the asserted restriction within the three-year period preceding the challenge shall serve as justification for the asserted restriction if—

"(I) the validation occurred after a review of the validated restriction under this subsection; and

"(II) the validated restriction was asserted by the same contractor or subcontractor (or any licensee of such contractor or subcontractor) to which such notice is being provided.

"(B) Notwithstanding subparagraph (A), the United States may challenge a restriction on the release, disclosure, or use of technical data delivered under a contract at any time if such technical data—

"(i) is publicly available;

"(ii) has been furnished to the United States without restriction; or

"(iii) has been otherwise made available without restriction.".

(c) CONFORMING AMENDMENTS.—Section 1202 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2301 note), is amended—

(1) by inserting "and" at the end of paragraph (4);

(2) by striking out "; and" at the end of paragraph (5) and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

10 USC 2320 note.

Federal Register, publication.

(d) DEADLINE FOR REVISION OF REGULATIONS.—(1) Proposed regulations under section 2320(a)(1) of title 10, United States Code (as amended by subsection (a)), shall be published in the Federal Register for comment not later than 90 days after the date of the enactment of this Act.

Federal Register, publication.

(2) Proposed final regulations under such section shall be published in the Federal Register not later than 180 days after the date of the enactment of this Act.

10 USC 2320 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to contracts for which solicitations are issued after the end of the 210-day period beginning on the date of the enactment of this Act.

SEC. 954. RECOVERY OF COSTS TO PROVIDE TECHNICAL DATA

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding after section 2327 (as added by section 951) the following new section:

10 USC 2328.

"§ 2328. Release of technical data

"(a) IN GENERAL.—(1) The Secretary of Defense shall, if required to release technical data under section 552 of title 5 (relating to the Freedom of Information Act), release technical data to a person requesting such a release if the person pays all reasonable costs attributable to search and duplication.

Regulations.

"(2) The Secretary of Defense shall prescribe regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees under this section.

"(b) DISPOSITION OF COSTS.—An amount received under this section—

"(1) shall be retained by the Department of Defense or the element of the Department of Defense receiving the amount; and

"(2) shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

"(c) WAIVER.—The Secretary of Defense shall waive the payment of costs required by subsection (a) which are in an amount greater than the costs that would be required for such a release of information under section 552 of title 5 if—

Contracts.

"(1) the request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Secretary may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

"(2) the release of technical data is requested in order to comply with the terms of an international agreement; or

"(3) the Secretary determines, in accordance with section 552(a)(4)(A) of title 5, that such a waiver is in the interests of the United States.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2327 (as added by section 971) the following new item:

"2328. Release of technical data.".

10 USC 2328 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act.

10 USC 113 note.

SEC. 955. COMPARABLE BUDGETING FOR SIMILAR SYSTEMS

(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

(1) specifically identify each common procurement weapon system included in the budget;

(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

(b) ASSISTANT SECRETARY (COMPTROLLER).—The Secretary of Defense shall carry out this section through the Assistant Secretary of Defense (Comptroller).

100 STAT. 3954

(c) DEFINITIONS.—In this section:

(1) The term "defense budget" means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 United States Code, for a fiscal year.

(2) The term "common procurement weapon system" means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.

SEC. 956. FUNDING OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS SERVING DISTRESSED AREAS

(a) DEFINITIONS.—Section 2411 of title 10, United States Code, is amended to read as follows:

"§ 2411. Definitions

"In this chapter:

"(1) The term 'eligible entity' means any of the following:

"(A) A State.

"(B) A local government.

"(C) A private, nonprofit organization.

"(2) The term 'distressed area' means the area of a unit of local government (or such area excluding the area of any defined political jurisdiction within the area of such unit of local government) that—

"(A) has a per capita income of 80 percent or less of the State average; or

"(B) has an unemployment rate that is one percent greater than the national average for the most recent 24-month period for which statistics are available.

"(3) The term 'Secretary' means the Secretary of Defense acting through the Director of the Defense Logistics Agency.

"(4) The terms 'State' and 'local government' have the meaning given those terms in section 6302 of title 31.".

(b) SERVICE AREAS.—Section 2413(b) of such title is amended—

(1) by inserting "sponsor programs to" after "agree to";

(2) by inserting "under such programs" after "cost of furnishing such assistance";

(3) by striking out "an eligible entity that is a distressed entity" and inserting in lieu thereof "a program sponsored by such an entity that provides services solely in a distressed area"; and

(4) by inserting "with respect to such program" before the period.

SEC. 957. SUBCONTRACTOR INFORMATION TO BE PROVIDED TO PROCUREMENT OUTREACH CENTERS

(a) CONTRACTORS TO FURNISH INFORMATION.—(1) Chapter 142 of title 10, United States Code, is amended—

10 USC 2411 *et seq.*

(A) by redesignating section 2416 as section 2417; and

(B) by inserting after section 2415 the following new section:

"§ 2416. Subcontractor information

10 USC 2416.

"(a) The Secretary of Defense shall require that any defense contractor in any year shall provide to an eligible entity with which the Secretary has entered into a cooperative agreement under this chapter, on the request of such entity, the information specified in subsection (b).

"(b) Information to be provided under subsection (a) is a listing of the name of each appropriate employee of the contractor who has responsibilities with respect to entering into contracts on behalf of such contractor that constitute subcontracts of contracts being performed by such contractor, together with the business address and telephone number and area of responsibility of each such employee.

"(c) A defense contractor need not provide information under this section to a particular eligible entity more frequently than once a year.

"(d) In this section, the term 'defense contractor', for any year, means a person awarded a contract with the Department of Defense in that year for an amount in excess of $500,000.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2416 and inserting in lieu thereof the following new items:

"2416. Subcontractor information.
"2417. Regulations.".

(b) EFFECTIVE DATE.—Section 2416 of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1987.

10 USC 2416 note.

PART F—MISCELLANEOUS REPORTS

SEC. 961. SELECTED ACQUISITION REPORTS

(a) REVISION OF REPORTING REQUIREMENTS.—Section 2432 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended— Ante, p. 994.

(1) by adding at the end of subsection (a)(3) the following new sentence: "If for any fiscal year the funds appropriated, or the number of fully-configured end items to be purchased, differ from those programmed, the procurement unit cost shall be revised to reflect the appropriated amounts and quantities.";

(2) by striking out "$2,000,000" in subsection (a)(4) and inserting in lieu thereof "$40,000,000";

(3) by striking out "three-month" in subsection (b)(2)(B) and inserting in lieu thereof "six-month";

(4) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall be designed to provide to the Committees on Armed Services of the Senate and House of Representatives the information such Committees need to perform their oversight functions. A change in the content of the Selected Acquisition Report for the first quarter of a fiscal year from the content as reported for the first quarter of the previous fiscal year may not be made until appropriate officials of the Department of Defense consult with such Committees regarding the proposed changes.";

(5) by inserting "that is produced at a rate of six units or more per year" in subsection (c)(3)(C) after "report" in the matter preceding clause (i); and

(6) by adding at the end the following new subsection:

"(h)(1) Total program reporting under this section shall apply to a major defense acquisition program when funds have been appropriated for such and the Secretary of Defense has decided to proceed to full-scale engineering development of such program. Reporting may be limited to the development program as provided in paragraph (2) before a decision is made by the Secretary of Defense to proceed to full-scale engineering development if the Secretary notifies the Committees on Armed Services of the Senate and House of Representatives of the intention to submit a limited report under this subsection not less than 15 days before a report is due under this section.

"(2) A limited report under this subsection shall include the following:

"(A) The same information, in detail and summarized form, as is provided in reports submitted under subsections (c)(1) and (c)(3) of section 2431 of this title. 10 USC 2431.

"(B) Reasons for any change in the development cost and schedule.

"(C) The major contracts under the development program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(D) The completion status of the development program expressed—

"(i) as the percentage that the number of years for which funds have been appropriated for the development program is of the number of years for which it is planned that funds will be appropriated for the program; and

"(ii) as the percentage that the amount of funds that have been appropriated for the development program is of the total amount of funds which it is planned will be appropriated for the program.

"(E) Program highlights since the last Selected Acquisition Report.

"(F) Other information as the Secretary of Defense considers appropriate.

"(3) The submission requirements for a limited report under this subsection shall be the same as for quarterly Selected Acquisition Reports for total program reporting.".

(b) UNIT COST REPORTS.—Section 2433 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended— *Ante*, p. 994.

(1) in subsection (b), by inserting "(excluding Saturdays, Sundays, and legal public holidays)" after "days" both places such term appears in the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Reporting under this section shall not apply if a program has received a limited reporting waiver under section 2432(h) of this title.". *Ante*, p. 3955.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1987. 10 USC 2432 note.

SEC. 962. REPORT ON EFFORTS TO INCREASE DEFENSE CONTRACT AWARDS TO INDIAN-OWNED BUSINESSES

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the efforts by the Department of Defense during fiscal years 1986 and 1987 to increase awards of defense contracts to Indian-owned businesses in accordance with the memorandum of understanding between the Department of Defense and the Small Business Administration of September 29, 1983. Such report shall include, to the maximum extent practicable, any data regarding the number and value of prime contracts awarded by the Department of Defense during such fiscal years to such businesses.

100 STAT. 3957

(b) DEADLINE.—The report required by subsection (a) shall be submitted no later than March 31, 1988.

(c) INDIAN-OWNED BUSINESS DEFINED.—For purposes of this section, the term "Indian-owned business" means a firm owned and controlled by American Indians, including a tribally owned for-profit entity.

SEC. 963. REPORT ON INCREASED GEOGRAPHIC DISTRIBUTION OF DEFENSE CONTRACTORS

(a) IN GENERAL.—(1) The Secretary of Defense shall submit to Congress a report on the actions taken by the Department of Defense during fiscal years 1985 and 1986 to increase contract competition and the national defense industrial base by increasing the participation in defense contracts of contractors in all geographic areas of the United States.

(2) Such report shall be submitted not later than March 31, 1987.

(b) CONTENTS OF REPORTS.—The report required by subsection (a)(1)—

(1) shall include a description of the use of procurement technical assistance centers, procurement conferences sponsored or supported by the Department of Defense, and any other Department of Defense programs conducted for the purpose of expanding the base of defense contractors; and

(2) shall categorize, by State and other appropriate geographic region, the actions described in the report.

TITLE X—ARMS CONTROL MATTERS

SEC. 1001. SENSE OF THE CONGRESS RELATING TO SALT II COMPLIANCE

Defense and national security.
Union of Soviet Socialist Republics.

(a) CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic

missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

SEC. 1002. SENSE OF THE CONGRESS ON NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

14 UST 1313.
21 UST 483.
100 STAT. 3958

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

President of U.S.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

SEC. 1003. REPORT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON UNITED STATES NON-COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall submit to Congress a report containing a detailed assessment of—

(1) the military consequences to the United States of a policy decision by the United States to discontinue compliance with the major provisions of existing strategic offensive arms limitations agreements (including central numerical sublimits on

strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) **Matters To Be Considered.**—The assessment required by subsection (a) shall focus on what the likely Soviet military responses would be during the period between 1987 and 1996. In 100 STAT. 3959 making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to counter any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(3) Under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions.

(4) The military effect on United States national security of the diversion the funds identified under paragraph (2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military effect of such a diversion on the ability of United States conventional forces to meet the specific non-nuclear defense commitments of the United States as a member of the North Atlantic Treaty Organization and under the 1960 Treaty of Mutual Cooperation and Security with Japan. 11 UST 1632.

(5) The military implications for the United States of Soviet violations of offensive arms control agreements that have been determined.

(c) **Report Requirements.**—(1) The Chairman shall—

(A) include in the report required under subsection (a) the individual views of the other members of the Joint Chiefs of Staff; and

(B) submit such report in both classified and unclassified form.

(2) The report required by subsection (a) shall be submitted not later than December 19, 1986.

(e) **Restriction on Obligation of Funds.**—If the Chairman of the Joint Chiefs of Staff fails to submit the report required by subsection (a) before December 20, 1986, no funds may be obligated or expended, directly or indirectly, on or after such date by the Organization of the Joint Chiefs of Staff for any study or analysis to be conducted by a civilian contractor until such report is received by Congress.

SEC. 1004. SENSE OF CONGRESS EXPRESSING SUPPORT FOR A CENTRAL ROLE FOR NUCLEAR RISK REDUCTION CENTERS

(a) **Congressional Statements.**—The Congress—

(1) has expressed its prior support for the establishment of nuclear risk reduction centers; and

100 STAT. 3960 (2) supports the President's willingness to negotiate an agreement with the Soviet Union to establish such centers in each nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that if an agreement on nuclear risk reduction centers is signed, the United States center should—

(1) be assigned the responsibility to serve as the center of activity for United States risk reduction activities under the agreement; and

(2) make recommendations to the Assistant to the President for National Security Affairs regarding additional risk reduction arrangements that might be proposed to the Soviet Union.

TITLE XI—MATTERS RELATING TO NATO AND OTHER ALLIES

SEC. 1101. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK

Chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.) is amended by adding at the end the following new section:

22 USC 2321j.

"SEC. 516. MODERNIZATION OF DEFENSE CAPABILITIES OF COUNTRIES OF NATO'S SOUTHERN FLANK.

"(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law and subject to subsection (b), during the fiscal years 1987 and 1988 the President may transfer to those member countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO which are eligible for United States security assistance and which are integrated into NATO's military structure such defense articles as the President determines necessary to help modernize the defense capabilities of such countries. Such articles may be transferred without cost to the recipient countries.

President of U.S.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer; and

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States.

"(c) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer defense articles under this section until 30 days after he has notified the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States.

22 USC 2392.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of defense articles under this section.

"(e) DEFINITION.—As used in subsection (a), the term 'member 100 STAT. 3961 countries of the North Atlantic Treaty Organization (NATO) on the southern flank of NATO' means Greece, Italy, Portugal, Spain, and Turkey.".

10 USC 2407 note.

SEC. 1102. NATO COOPERATIVE LOGISTIC SUPPORT AGREEMENTS

(a) GENERAL AUTHORITY.—The Secretary of Defense may enter into bilateral or multilateral Weapon System Partnership Agreements (as defined in subsection (g)) with one or more governments of other member countries of the North Atlantic Treaty Organization

(NATO) for the purpose of providing cooperative logistics support for the armed forces of the countries which are parties to the agreements. Such agreements may include provision for the transfer of logistics support, supplies, and services by the United States to the NATO Maintenance and Supply Organization and for the acquisition of logistics support, supplies, and services by the United States from such Organization.

(b) AUTHORITY OF SECRETARY OF DEFENSE.—Under the terms of a Weapon System Partnership Agreement entered into under subsection (a), the Secretary of Defense may—

(1) agree that the NATO Maintenance and Supply Organization may make contracts for supply and acquisition of logistics support in Europe for requirements of the United States, to the extent the Secretary determines that the procedures of such Organization governing such supply and acquisition are appropriate; and

Contracts.

(2) share the costs of set-up charges of facilities for use by the NATO Maintenance and Supply Organization to provide cooperative logistics support and share in the costs of establishing a revolving fund for initial acquisition and replenishment of supply stocks to be used by the NATO Maintenance and Supply Organization to provide cooperative logistics support.

(c) SHARING OF ADMINISTRATIVE EXPENSES.—Each Weapon System Partnership Agreement shall provide for joint management by the participating countries and for the equitable sharing of the administrative costs incident to such agreement.

(d) APPLICATION OF CHAPTER 137.—Except as provided in this section, the provisions of chapter 137 of title 10, United States Code, shall apply to contracts entered into by the Secretary of Defense for the acquisition of logistics support under a Weapon System Partnership Agreement.

Contracts.
Ante, p. 3952.

(e) APPLICATION OF ARMS EXPORT CONTROL ACT.—The transfer of defense articles or defense services to member countries of the North Atlantic Treaty Organization and the NATO Maintenance and Supply Organization for the purposes of a Weapon System Partnership Agreement shall be carried out in accordance with the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(f) SUPPLEMENTAL AUTHORITY.—The authority of the Secretary of Defense under this section is in addition to the authority of the Secretary under chapter 138 of title 10, United States Code, and any other provision of law.

10 USC 2321 *et seq.*

(g) DEFINITION.—For the purpose of this section, the term "Weapon System Partnership Agreement" means an agreement between the United States and one or more other NATO countries participating in the operation of the NATO Maintenance and Supply Organization that—

(1) is entered into pursuant to the terms of the charter of the NATO Maintenance and Supply Organization; and

(2) is for the common logistic support of a specific weapon system common to the participating countries.

SEC. 1103. COOPERATIVE PROJECTS

(a) ARMS EXPORT CONTROL ACT.—(1) Section 27 of the Arms Export Control Act (22 U.S.C. 2767) is amended—

(A) in subsection (b)—

(i) by inserting ", in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization," after "project' " in paragraph (1);

(ii) by striking out "and" at the end of paragraph (1);

(iii) by redesignating paragraph (2) as paragraph (3); and

(iv) by inserting after paragraph (1) the following new paragraph:

"(2) the term 'cooperative project', in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the conventional defense capabilities of the participants and which provides—

"(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

"(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

"(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and";

(B) in subsection (f)(3), by inserting after "Government" the following: ", including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act,";

22 USC 2761, 2792.

(C) in subsection (g), by striking out "Section" and inserting in lieu thereof the following: "In the case of a cooperative project with a North Atlantic Treaty Organization country, section,"; and

(D) by adding at the end the following new subsection:

"(j)(1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

President of U.S. Report.

"(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.".

100 STAT. 3963

(2) The heading for such section is amended to read as follows: "AUTHORITY OF PRESIDENT TO ENTER INTO COOPERATIVE PROJECTS WITH FRIENDLY FOREIGN COUNTRIES.—".

(b) TITLE 10, UNITED STATES CODE.—(1) Section 2407 of title 10, United States Code, is amended—

(A) by striking out "North Atlantic Treaty Organization (NATO)" in subsection (a)(1);

(B) by striking out "NATO" in subsection (c)(2); and

(C) by striking out "NATO" each place it appears in paragraphs (1) and (2) of subsection (e).

(2)(A) The heading of such section is amended to read as follows:

"§ 2407. Acquisition of defense equipment under cooperative projects".

(B) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2407. Acquisition of defense equipment under cooperative projects.".

SEC. 1104. ACQUISITION AND CROSS-SERVICING AGREEMENTS

(a) AUTHORITY TO ENTER INTO AGREEMENTS WITH COUNTRIES OUTSIDE EUROPE.—Sections 2341 and 2342 of title 10, United States Code, are amended to read as follows:

"§ 2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States

"Subject to section 2343 of this title and subject to the availability of appropriations, the Secretary of Defense may—

"(1) acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters; and

"(2) acquire from any government not a member of the North Atlantic Treaty Organization in which elements of the armed forces are deployed (or are to be deployed) logistic support, supplies, and services for elements of the armed forces deployed (or to be deployed) in such country or in the military region in which such country is located if that country—

"(A) has a defense alliance with the United States;

"(B) permits the stationing of members of the armed forces in such country or the homeporting of naval vessels of the United States in such country; Vessels.

"(C) has agreed to preposition materiel of the United States in such country; or

"(D) serves as the host country to military exercises which include elements of the armed forces or permits other military operations by the armed forces in such country.

"§ 2342. Cross servicing agreements

"(a) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into any of the following agreements:

100 STAT. 3964

"(1) An agreement with the government of a North Atlantic Treaty Organization country (or with a North Atlantic Treaty Organization subsidiary body) under which—

"(A) the United States agrees to provide logistic support, supplies, and services to military forces of such country (or subsidiary body) deployed in Europe and adjacent waters, in return for

"(B) the reciprocal provision of logistic support, supplies, and services by such country (or subsidiary body) to elements of the armed forces deployed in Europe and adjacent waters.

"(2) An agreement with the government of a country designated by the Secretary of Defense which is not a member of the North Atlantic Treaty Organization under which—

"(A) the United States agrees to provide logistic support, supplies, and services to the military forces of such country, in return for

"(B) the reciprocal provision of logistic support, supplies, and services by such country to elements of the armed forces deployed in such country or in the military region in which such country is located.

"(3) An agreement with the government of a country referred to in paragraph (1) or (2) under which—

"(A) the United States agrees to provide logistic support, supplies, and services to the military forces of such country, in return for

"(B) the reciprocal provision of support, supplies, and services for the armed forces from such country while the military forces of such country are stationed in North America or are performing military exercises or training in North America.

"(b) The Secretary of Defense may not designate a country for an agreement under this section—

Defense and national security.

"(1) unless the Secretary, after consultation with the Secretary of State, determines that the designation of such country for such purpose is in the interest of the national security of the United States; and

"(2) in the case of a country which is not a member of the North Atlantic Treaty Organization, notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives at least 30 days before the date on which such country is designated by the Secretary under subsection (a).

"(c) The Secretary of Defense may not use the authority of this chapter to procure from any foreign government as a routine or normal source any goods or services reasonably available from United States commercial sources.

Regulations. Contracts.

"(d) The Secretary shall prescribe regulations to ensure that contracts entered into under this chapter are free from self-dealing, bribery, and conflict of interests.".

10 USC 2344.

(b) Methods of Payment.—Section 2344(b) of such title is amended—

(1) by inserting "or other foreign country" after "country" in the material preceding subparagraph (A) of paragraph (1); and

(2) by inserting "or other foreign country" in paragraph (3) after "country".

100 STAT. 3965

10 USC 2345.

(c) Liquidation of Accrued Credits and Liabilities.—Section 2345 of such title is amended—

(1) by inserting "(a)" before "Credits" at the beginning of such section; and

(2) by adding at the end the following new subsection:

"(b) Payment-in-kind or exchange entitlements accrued as a result of acquisitions and transfers of logistic support, supplies, and services under authority of this chapter shall be satisfied within 12 months after the date of the delivery of the logistic support, supplies, or services.".

(d) Limitations on Amounts That May Be Obligated or Accrued by the United States.—(1) Subsection (a) of section 2347 of such title is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) Except during a period of active hostilities in the military region affecting a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) with such country may not exceed $10,000,000 in any fiscal year, and of such amount not more than $2,500,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants). The $10,000,000 limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).".

(2) Subsection (b) of such section is amended—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraph:

"(2) Except during a period of active hostilities in the military region affecting a country referred to in paragraph (1), the total amount of reimbursable credits that the United States may accrue under this chapter from such country (before computation of offsetting balances) may not exceed $10,000,000 in any fiscal year. Such limitation specified in this paragraph is in addition to the limitation specified in paragraph (1).".

(e) Inventories of Supplies Not To Be Increased.—Section 2348 of such title is amended by striking out "to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body".

(f) DEFINITION.—Section 2350 of such title is amended by adding at the end the following new paragraph:

"(3) 'Military region' means the geographical area of responsibility assigned to the commander of a unified combatant command (excluding Europe and adjacent waters).".

(g) CLERICAL AMENDMENT.—The item relating to section 2341 in the table of sections at the beginning of chapter 138 of such title is amended to read as follows:

"2341. Authority to acquire logistic support, supplies, and services for elements of the armed forces deployed outside the United States.".

SEC. 1105. COOPERATIVE RESEARCH AND DEVELOPMENT WITH MAJOR NON-NATO ALLIES 22 USC 2767a.

(a) FINDINGS.—The Congress finds—

(1) that the North Atlantic Treaty Organization Cooperative Research and Development program instituted during fiscal year 1986 has served to increase cooperation in research and development among member countries of the North Atlantic Treaty Organization; and

(2) that additional benefits of cooperation in research and development might ensue from an extension of the program to include major non-NATO allies of the United States.

(b) CONGRESSIONAL REQUEST FOR COOPERATION ON RESEARCH AND DEVELOPMENT.—The Congress urges and requests the President and the Secretary of Defense to pursue diligently opportunities for the United States and major non-NATO allies of the United States to cooperate—

(1) in research and development on defense equipment and munitions; and

(2) in the production of defense equipment.

(c) FUNDS FOR COOPERATIVE PROJECTS.—Of the funds appropriated pursuant to the authorizations of appropriations in section 201, up to $40,000,000 shall be available for cooperative research and development projects with major non-NATO allies.

(d) RESTRICTIONS.—(1) A memorandum of understanding (or other formal agreement) to conduct a cooperative research and development project under this section may not be entered into unless the Secretary of Defense determines that the proposed project enhances the ongoing multinational effort to improve conventional defense capabilities through the application of emerging technology.

(2) Each such cooperative project shall require sharing of the costs of research between the participants on an equitable basis.

(3) The Secretary may not delegate the authority to make a determination under paragraph (1) except to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(e) RESTRICTIONS ON PROCUREMENT OF EQUIPMENT AND SERVICES.—(1) In order to assure substantial participation on the part of major non-NATO allies in cooperative research and development projects, funds made available under subsection (c) for such projects may not be used to procure equipment or services from any foreign government, foreign research organization, or other foreign entity.

(2) A major non-NATO ally may not use any United States military or economic assistance grants, loans, or other funds for the purpose of making its contribution to a cooperative research and development program entered into with the United States under this section.

(f) NOTICE TO CONGRESS.—Not later than January 1 of each year, the Secretary of Defense and the Secretary of State shall jointly submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report— Report.

(1) enumerating those countries eligible for participation with the United States in a cooperative research and development program authorized by this section; and

(2) specifying the criteria used in determining eligibility for the participation of such countries.

(g) DEFINITIONS.—As used in this section:

(1) The term "major non-NATO ally" means a country designated as a major non-NATO ally for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

100 STAT. 3967

(2) The term "cooperative research and development project" means a project involving joint participation by the United States and one or more major non-NATO allies under a memorandum of understanding (or other formal agreement) to carry out a joint research and development program—

(A) to develop new conventional equipment and munitions; or

(B) to modify existing military equipment to meet United States military requirements.

TITLE XII—DEPARTMENT OF DEFENSE MANAGEMENT

PART A—MANAGEMENT OF CERTAIN PROCUREMENT MATTERS

SEC. 1201. CONTRACTS FOR OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS

(a) IN GENERAL.—Section 7299a of title 10, United States Code (relating to construction of combatant and escort vessels and assignment of naval vessel projects), is amended by adding at the end the following new subsections:

"(c) In evaluating bids or proposals for a contract for the overhaul, repair, or maintenance of a naval vessel, the Secretary of the Navy shall, in determining the cost or price of work to be performed in an area outside the area of the homeport of the vessel, consider foreseeable costs of moving the vessel and its crew from the homeport to the outside area and from the outside area back to the homeport at the completion of the contract.

"(d)(1) Notwithstanding subsections (b) and (c), the Secretary may award a contract for short-term work for the overhaul, repair, or maintenance of a naval vessel only to a contractor that is able to perform the work at the homeport of the vessel, if the Secretary determines that adequate competition is available among firms able to perform the work at the homeport of the vessel.

"(2) In this subsection, the term 'short-term work' means work that will be for a period of six months or less.".

(b) REPEAL OF LIMITATION ON FY86 FUNDS.—Section 8104 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1221)), is repealed.

SEC. 1202. HANDLING OF HAZARDOUS WASTE GENERATED DURING REPAIR OR MAINTENANCE OF NAVAL VESSELS

(a) REQUIRED CONTRACT PROVISIONS.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 7311.

"§ 7311. Repair or maintenance of naval vessels: handling of hazardous waste

"(a) CONTRACTUAL PROVISIONS.—The Secretary of the Navy shall ensure that a contract entered into for repair or maintenance of a naval vessel includes the following provisions:

"(1) IDENTIFICATION OF HAZARDOUS WASTES.—Provisions identifying the type and amounts of hazardous wastes that are expected to be generated during the performance of the repair or maintenance.

"(2) COMPENSATION.—Provisions specifying that the contractor shall be compensated under the contract for work performed by the contractor for duties of the contractor specified under paragraph (3).

100 STAT. 3968

"(3) Statement of work.—Provisions mutually acceptable to the Navy and the contractor specifying the responsibilities of the Navy and of the contractor, respectively, for the removal, handling, storage, transportation, and disposal of hazardous wastes generated during the performance of the repair or maintenance.

"(b) Renegotiation of Contract.—The Secretary of the Navy shall renegotiate a contract described in subsection (a) if—

"(1) the contractor, during the performance of repair or maintenance under the contract, discovers hazardous wastes different in type or amount from those identified in the contract; and

"(2) such hazardous wastes originated on the naval vessel on which the repair or maintenance is being performed.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7311. Repair or maintenance of naval vessels: handling of hazardous waste.".

SEC. 1203. LIMITATION ON TRANSFER OF CERTAIN TECHNICAL DATA PACKAGES

(a) Technical Data Packages for Production of Large-Caliber Cannon.—(1) Chapter 433 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception

10 USC 4542.

"(a) General Rule.—Funds appropriated to the Department of Defense may not be used—

"(1) to transfer to a foreign country a technical data package for a defense item being manufactured or developed in an arsenal; or

"(2) to assist a foreign country in producing such a defense item.

"(b) Exception.—The Secretary of the Army may use funds appropriated to the Department of Defense to transfer a technical data package, or to provide assistance, described in subsection (a) if—

"(1) the transfer or provision of assistance is to a friendly foreign country (as determined by the Secretary of Defense in consultation with the Secretary of State);

"(2) the Secretary of the Army determines that such action—

"(A) would have a clear benefit to the preservation of the production base for the production of cannon at the arsenal concerned; and

"(B) would not transfer technology (including production techniques) considered unique to the arsenal concerned; and

"(3) the Secretary of Defense enters into an agreement with the country concerned described in subsection (c).

"(c) Coproduction Agreements.—An agreement under this subsection shall be in the form of a Government-to-Government Memorandum of Understanding and shall include provisions that—

"(1) prescribe the content of the technical data package or assistance to be transferred to the foreign country participating in the agreement;

100 STAT. 3969

"(2) require that production by the participating foreign country of the defense item to which the technical data package or assistance relates be shared with the arsenal concerned;

"(3) subject to such exceptions as may be approved under subsection (d), prohibit transfer by the participating foreign country to a third party or country of—

"(A) any defense article, technical data package, technology, or assistance provided by the United States under the agreement; and

"(B) any defense article produced by the participating foreign country under the agreement; and

"(4) require the Secretary of Defense to monitor compliance with the agreement and the participating foreign country to report periodically to the Secretary of Defense concerning the agreement.

"(d) TRANSFERS TO THIRD PARTIES.—A transfer described in subsection (b)(3) may be made if—

"(1) the defense article, technical data package, or technology to be transferred is a product of a cooperative research and development program in which the United States and the participating foreign country were partners; or

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"(2) the President—

"(A) complies with all requirements of section 3(d) of the Arms Export Control Act (22 U.S.C. 2753(d)) with respect to such transfer; and

"(B) certifies to Congress, before the transfer, that the transfer would provide a clear benefit to the production base of the United States for large-caliber cannon.

"(e) NOTICE AND REPORTS TO CONGRESS.—(1) The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section.

Report.

"(2) The Secretary shall submit to Congress a semi-annual report on the operation of this section and of agreements entered into under this section.

"(f) ARSENAL DEFINED.—In this section, the term 'arsenal' means a Government-owned, Government-operated defense plant that manufactures large-caliber cannon.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4542. Technical data packages for large-caliber cannon: prohibition on transfers to foreign countries; exception.".

10 USC 4542 note.

(b) EFFECTIVE DATE.—Section 4542 of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

SEC. 1204. REQUIREMENTS CONCERNING TRANSPORTATION OF MEMBERS OF THE ARMED FORCES BY CHARTERED AIRCRAFT

(a) IN GENERAL.—(1) Chapter 157 of title 10, United States Code, is amended by adding at the end the following new section:

Contract.
10 USC 2640.

"§ 2640. Charter air transportation of members of the armed forces

"(a) REQUIREMENTS.—(1) The Secretary of Defense may not enter into a contract with an air carrier for the charter air transportation of members of the armed forces unless the air carrier—

100 STAT. 3970

"(A) meets, at a minimum, the safety standards established by the Secretary of Transportation under title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.);

"(B) has at least 12 months of experience operating services in air transportation that are substantially equivalent to the service sought by the Department of Defense; and

"(C) undergoes a technical safety evaluation.

"(2) For purposes of paragraph (1)(C), a technical safety evaluation—

"(A) shall include inspection of a representative number of aircraft; and

"(B) shall be conducted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of Transportation.

"(b) INSPECTIONS.—The Secretary shall provide for inspections of each air carrier that contracts with the Department of Defense for the charter air transportation of members of the armed forces. The inspections shall be conducted in accordance with standards established by the Secretary, after consultation with the Secretary of Transportation, and shall include, at a minimum, the following:

"(1) An on-site capability survey of the air carrier conducted at least once every two years.

"(2) A performance evaluation of the air carrier conducted at least once every six months.

"(3) A preflight safety inspection of each aircraft conducted at any time during the operation of, but not more than 72 hours before, each internationally scheduled charter mission departing the United States.

"(4) A preflight safety inspection of each aircraft used for domestic charter missions conducted to the greatest extent practical.

"(5) Operational check-rides on aircraft conducted periodically.

"(c) Commercial Airlift Review Board.—The Secretary shall establish a Commercial Airlift Review Board within the Department of Defense. The Board shall consist of personnel from the Department of Defense and other Government personnel as may be appropriate. The duties of the Board shall be—

"(1) to make recommendations to the Secretary on suspension and reinstatement of air carriers under subsection (d);

"(2) to make recommendations to the Secretary on waivers under subsection (g); and

"(3) to carry out such other duties and make recommendations on such other matters as the Secretary considers appropriate.

"(d) Suspension and Reinstatement.—(1) The Secretary shall establish guidelines for the suspension of air carriers under contract with the Department of Defense for the charter air transportation of members of the armed forces and for the reinstatement of air carriers that have been so suspended. The guidelines—

"(A) shall require the immediate determination of whether to suspend an air carrier if an aircraft of the air carrier is involved in a fatal accident; and

"(B) may require the suspension of an air carrier—

"(i) if the carrier is in violation of any order, rule, regulation, or standard prescribed under title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.); or 100 STAT. 3971

"(ii) if an aircraft of the air carrier is involved in a serious accident.

"(2) The Commercial Airlift Review Board shall make recommendations to the Secretary on suspension and reinstatement under this subsection.

"(3) The Secretary shall include in each contract subject to this section the provisions on suspension and reinstatement established under this subsection.

"(e) Authority To Leave Unsafe Aircraft.—A representative of the Military Airlift Command, the Military Traffic Management Command, or such other agency as may be designated by the Secretary of Defense (or if there is no such representative reasonably available, the senior officer on board a chartered aircraft) may order members of the armed forces to leave a chartered aircraft if the representative (or officer) determines that a condition exists on the aircraft which may endanger the safety of the members.

"(f) FAA Information.—The Secretary shall request the Secretary of Transportation to provide to the Secretary a report on each inspection performed by Federal Aviation Administration personnel, and the status of corrective actions taken, on each aircraft of an air carrier under contract with the Department of Defense for the charter air transportation of members of the armed forces. Report.

"(g) Waiver.—After considering recommendations by the Commercial Airlift Review Board, the Secretary may waive any provision of this section in an emergency.

"(h) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section, including requirements and identification of inspecting personnel with respect to preflight safety inspections required by subsection (b)(3).

"(i) DEFINITIONS.—In this section:

"(1) The terms 'air carrier', 'aircraft', 'air transportation', and 'charter air transportation' have the meanings given such terms by sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15)).

"(2) The term 'members of the armed forces' means members of the Army, Navy, Air Force, and Marine Corps.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2640. Charter air transportation of members of the armed forces.".

10 USC 2640 note.

(b) DEADLINE FOR REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe the regulations required by section 2640 of title 10, United States Code, as added by subsection (a).

10 USC 2640 note

(c) EFFECTIVE DATE.—Section 2640 of title 10, United States Code, as added by subsection (a), shall apply only to contracts which are entered into on or after the date on which the regulations required by subsection (b) are prescribed.

SEC. 1205. FUEL SOURCES FOR HEATING SYSTEMS ON MILITARY INSTALLATIONS; PROHIBITION ON CONVERTING CERTAIN HEATING FACILITIES

(a) REQUIREMENT AND RESTRICTION.—(1) Section 2690 of title 10, United States Code, is amended to read as follows:

100 STAT. 3972

"§ 2690. Fuel sources for heating systems; prohibition on converting certain heating facilities

"(a)(1) The Secretary of the military department concerned shall provide that the primary fuel source to be used in any new heating system constructed on lands under the jurisdiction of the military department is the most cost effective fuel for that heating system over the life cycle of the system.

Regulation.

"(2) The Secretary of Defense shall prescribe regulations for the determination of the life-cycle cost effectiveness of a fuel for the purposes of paragraph (1).

"(b) The Secretary of a military department may not convert a heating facility at a United States military installation in Europe from a coal-fired facility to an oil-fired facility, or to any other energy source facility, unless the Secretary—

"(1) determines that the conversion (A) is required by the government of the country in which the facility is located, or (B) is cost effective over the life cycle of the facility; and

"(2) submits to Congress notification of the proposed conversion and a period of 30 days has elapsed following the date on which Congress receives the notice.".

(2) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

10 USC 2661 *et seq.*

"2690. Fuel sources for heating systems.".

(b) REPEAL OF CERTAIN REQUIREMENTS AND RESTRICTIONS.—Sections 8022, 8070, and 8110 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1207, 1214, and 1222), are repealed.

SEC. 1206. REVIEW OF THE SECURITY ADMINISTRATION IN DEFENSE INDUSTRY OF DEPARTMENT OF DEFENSE SPECIAL ACCESS PROGRAMS

(a) REVIEW.—The Secretary of Defense shall direct the Director of the Defense Investigative Service to conduct a review of the security administration of Department of Defense special access programs at all Department of Defense contractors involved in such programs. The review shall include a review of the frequency and adequacy of security inspections of such contractors conducted by the Department of Defense.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the results of the review under subsection (a).

(2) The report shall—

(A) identify any shortcoming found to exist in security administration of Department of Defense special access programs at Department of Defense contractors involved in such programs and the actions being taken to correct each such shortcoming;

(B) include recommendations for improvement of Department of Defense oversight of special access programs, if the Secretary considers such improvement necessary; and

(C) include recommendations for such legislation as the Secretary determines is required to correct such deficiencies.

(3) The report shall be submitted in an unclassified form. It shall be submitted not later than May 1, 1987.

(c) DIS SECURITY INVESTIGATIONS.—After consulting with the Secretary of Defense, the Director of the Defense Investigative Service may conduct such security inspections of special access programs as the Director considers appropriate, unless otherwise directed by the Secretary of Defense.

SEC. 1207. CONTRACT GOAL FOR MINORITIES

10 USC 2301 note.

(a) GOAL.—Except as provided in subsection (d), a goal of 5 percent of the amount described in subsection (b) shall be the objective of the Department of Defense in each of fiscal years 1987, 1988, and 1989 for the total combined amount obligated for contracts and subcontracts entered into with—

Disadvantaged persons.

(1) small business concerns, including mass media, owned and controlled by socially and economically disadvantaged individuals (as defined by section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and regulations issued under such section), the majority of the earnings of which directly accrue to such individuals;

Schools and colleges.

(2) historically Black colleges and universities; or

(3) minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.)).

(b) AMOUNT.—The requirements of subsection (a) for any fiscal year apply to the combined total of the following amounts:

(1) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for procurement.

Research and development.

(2) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for research, development, test, and evaluation.

(3) Funds obligated for contracts entered into with the Department of Defense for such fiscal year for military construction.

(4) Funds obligated for contracts entered into with the Department of Defense for operation and maintenance.

(c) TECHNICAL ASSISTANCE.—To attain the goal of subsection (a), the Secretary of Defense shall provide technical assistance services to potential contractors described in subsection (a). Such technical assistance shall include information about the program, advice about Department of Defense procurement procedures, instruction in preparation of proposals, and other such assistance as the Secretary considers appropriate. If Department of Defense resources are inadequate to provide such assistance, the Secretary of Defense may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, defense acquisition agencies, and defense prime contractors. Department of Defense contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

(d) APPLICABILITY.—Subsection (a) does not apply—

(1) to the extent to which the Secretary of Defense determines that compelling national security considerations require otherwise; and

(2) if the Secretary making such a determination notifies Congress of such determination and the reasons for such determination.

100 STAT. 3974

(e) COMPETITIVE PROCEDURES AND ADVANCE PAYMENTS.—To attain the goal of subsection (a)—

(1) The Secretary of Defense shall exercise his utmost authority, resourcefulness, and diligence.

(2) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the Secretary of Defense shall make advance payments under section 2307 of title 10, United States Code, to contractors described in subsection (a).

(3) To the extent practicable and when necessary to facilitate achievement of the 5 percent goal described in subsection (a), the Secretary of Defense may enter into contracts using less than full and open competitive procedures (including awards under section 8(a) of the Small Business Act), but shall pay a price not exceeding fair market cost by more than 10 percent in payment per contract to contractors or subcontractors described in subsection (a). 15 USC 637.

Schools and colleges.

(4) To the extent practicable, the Secretary of Defense shall maximize the number of minority small business concerns, historically Black colleges and universities, and minority institutions participating in the program.

(f) PENALTIES FOR MISREPRESENTATION.—Whoever for the purpose of securing a contract or subcontract under subsection (a) misrepresents the status of any concern or person as a small business concern owned and controlled by a minority (as described in subsection (a)), shall be punished by a fine of not less than $10,000, or by imprisonment for not more than one year, or both.

(g) ANNUAL REPORTS.—(1) Between May 1 and May 30 of each year, the Secretary of Defense shall submit to Congress a report on the progress toward meeting the goal of subsection (a) during the current fiscal year.

(2) Between October 1 and October 10 of each year, the Secretary of Defense shall submit to Congress a final report on the progress of the Secretary with the goal of subsection (a) during the preceding fiscal year.

(3) The reports described in paragraphs (1) and (2) shall each include the following:

(A) A full explanation of any progress toward attaining the goal of subsection (a).

(B) A plan to achieve the goal, if necessary.

(C) A description of the percentage of contracts (actions), the total dollar amount (size of action), and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities.

(4) The reports required under paragraph (2) shall also include the following:

(A) The aggregate differential between the fair market price of all contracts awarded pursuant to subsection (e)(3) and the estimated fair market price of all such contracts had such contracts been entered into using full and open competitive procedures.

(B) Detailed information on failure to perform in accordance with contract cost and technical requirements by entities awarded contracts pursuant to subsection (a).

(C) An analysis of the impact that subsection (a) shall have on the ability of small business concerns not owned and controlled by socially and economically disadvantaged individuals to compete for contracts with the Department of Defense.

(5) The first report required by this subsection shall be submitted between May 1 and May 30, 1987.

(h) Effective Date.—This section applies to each of fiscal years 1987, 1988, and 1989.

SEC. 1208. MANPOWER ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

(a) Requirement of Manpower Estimates.—Subsection (a) of section 2434 of title 10, United States Code (as redesignated by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended to read as follows:

"(a) Requirement for Approval.—The Secretary of Defense may not approve the full-scale engineering development, or the production and deployment, of a major defense acquisition program unless—

"(1) an independent estimate of the cost of the program is first submitted to (and considered by) the Secretary; and

"(2) the Secretary submits a manpower estimate of the program to the Committees on Armed Services of the Senate and the House of Representatives at least 90 days in advance of such approval.".

(b) Definitions.—Subsection (b) of such section is amended—

(1) by inserting "Definitions.—" before "In this section";

(2) by striking out "(1) 'Major" and inserting in lieu thereof "(1) The term 'major";

(3) by striking out "(2) 'Independent" and inserting in lieu thereof "(2) The term 'independent";

(4) by striking out "(3) 'Cost" and inserting in lieu thereof "(3) The term 'cost"; and

(5) by adding at the end the following new paragraph:

"(4) The term 'manpower estimate' means, with respect to a major defense acquisition program, an estimate of—

"(A) the total number of personnel (including military, civilian, and contractor personnel), expressed both in total personnel and man-years, that will be required to operate, maintain, and support the program upon full operational deployment and to train personnel to operate, maintain, and support the program upon full operational deployment;

"(B) the increases in military and civilian personnel end strengths that will be required for full operational deployment of the program above the end strengths authorized in the fiscal year in which such an estimate is submitted and the fiscal year or years in which such increases will be required; and

"(C) the manner in which such a program would be operationally deployed if no increases in military and civilian end strengths were authorized above the strengths authorized for the fiscal year in which such estimate is submitted.".

(c) Clerical Amendments.—(1) The heading of such section is amended to read as follows:

100 STAT. 3976 **"§ 2434. Independent cost estimates; operational manpower requirements".**

(2) The item relating to such section in the table of sections at the beginning of chapter 144 of such title (as enacted by section 101(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986) is amended to read as follows:

"2434. Independent cost estimates; operational manpower requirements.".

10 USC 2434 note.

(d) Effective Date.—The amendments made by this section shall apply to approvals of full-scale engineering development and to approvals of production and deployment of major defense acquisition programs made after December 31, 1986.

Part B—Economy and Efficiency

SEC. 1221. INCREASE IN THRESHOLD APPLICABLE TO STATUTORY CONTRACTING-OUT PROCEDURES

Section 502(d) of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note) is amended by striking out "40 or fewer" and inserting in lieu thereof "45 or fewer".

SEC. 1222. PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

(a) Firefighting Prohibition.—(1) Chapter 159 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2693.

"§ 2693. Prohibition on contracts for performance of firefighting functions

"(a) Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance of firefighting functions at any military installation or facility.

"(b) The prohibition in subsection (a) does not apply—

"(1) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which members of the armed forces would have to be used for the performance of the function described in subsection (a) at the expense of unit readiness;

"(2) to a contract to be carried out on a Government-owned but privately operated installation; or

"(3) to a contract (or the renewal of a contract) for the performance of a function under contract or September 24, 1983.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2693. Prohibition on contracts for performance of firefighting functions.".

10 USC 2304 note.

(b) One-Year Security-Guard Prohibition.—(1) Except as provided in paragraph (2), funds appropriated to the Department of Defense may not be obligated or expended before October 1, 1987, for the purpose of entering into a contract for the performance of security-guard functions at any military installation or facility.

100 STAT. 3977

(2) The prohibition in paragraph (1) does not apply—

(A) to a contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which military personnel would have to be used for the performance of the function described in paragraph (1) at the expense of unit readiness;

(B) to a contract to be carried out on a Government-owned but privately operated installation;

(C) to a contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983; or

(D) to a contract for the performance of security-guard functions if (i) the requirement for the functions arises after the date of the enactment of this Act, and (ii) the Secretary of Defense determines the functions can be performed by contractor personnel without adversely affecting installation security, safety, or readiness.

(c) REPEAL.—Section 1233 of the Department of Defense Authorization Act, 1986 (Public Law 99-145, 99 Stat. 734), is hereby repealed. 10 USC 2304 note.

SEC. 1223. CONTRACTING OUT THE PERFORMANCE OF DEPARTMENT OF DEFENSE SUPPLY AND SERVICE FUNCTIONS

10 USC 2304 note.

(a) IN GENERAL.—Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, executive order, or regulation) than the cost at which the Department can provide the same supply or service.

(b) COST COMPARISIONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of any Department of Defense function on the basis of a comparison of the costs of procuring supplies or services from such a source with the costs of providing the same supplies or services by the Department of Defense, the Secretary of Defense shall ensure that all costs considered, including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs, are realistic and fair.

SEC. 1224. REPORTS ON SAVINGS OR COSTS FROM INCREASED USE OF CIVILIAN PERSONNEL

10 USC 2304 note.

(a) IN GENERAL.—Whenever during a fiscal year to which this section applies the performance of any commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense.

(b) SEMI-ANNUAL REPORT ON COSTS AND SAVINGS.—As soon as practicable after the end of the first six months, and after the end of the second six months, of a fiscal year to which this section applies, the Secretary of Defense shall submit to the Committees on Armed 100 STAT. 3978 Services of the Senate and House of Representatives a report showing the estimated savings or loss to the United States, during the preceding six month period, that is reflected in the data maintained under subsection (a).

(c) APPLICABILITY OF SECTION.—This section shall apply only with respect to a fiscal year during which there is no statutory limit (commonly known as an "end strength") on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

TITLE XIII—GENERAL PROVISIONS

PART A—FINANCIAL MATTERS

SEC. 1301. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON OBLIGATION LIMITATIONS.—A transfer made under the authority of this section—

(1) increases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) to which the transfer is made; and

(2) decreases by the amount of the transfer the obligation limitation provided in this division on the account (or other amount) from which the transfer is made.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1302. AUTHORIZATION OF APPROPRIATIONS FOR CIVILIAN PAY AND CONTINGENCIES

There are authorized to be appropriated to the Department of Defense for fiscal year 1987, in addition to other amounts authorized to be appropriated in this Act, such sums as may be necessary—

(1) for unbudgeted increases in fuel costs;

(2) for unbudgeted increases as a result of inflation in the cost of activities authorized in this Act; and

(3) for unbudgeted amounts for salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this Act.

SEC. 1303. AUTHORIZATION OF APPROPRIATIONS FOR FOREIGN CURRENCY PURCHASES

There is hereby authorized to be appropriated for fiscal year 1987 the amount of $3,500,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

SEC. 1304. SPECIAL DEFENSE ACQUISITION FUND

(a) INCREASE IN SIZE OF FUND.—Section 114(c) of title 10, United States Code (as redesignated by section 110(b) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)), is amended by striking out "$1,000,000,000" and inserting in lieu thereof "$1,070,000,000". *Ante*, p. 1001.

10 USC 114 note.
2 USC 651.

(b) BUDGET ACT LIMITATION.—New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) provided by the amendment made by subsection (a) shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 1305. LIMITATION ON OBLIGATION OF FISCAL YEAR 1985 AND FISCAL YEAR 1986 FUNDS

(a) LIMITATIONS.—Subject to subsection (b), funds appropriated for fiscal years 1985 and 1986 and remaining available for obligation may not be obligated as follows:

Account	Fiscal year 1985 amount	Fiscal year 1986 amount
Aircraft Procurement, Army	$21,000,000	$110,800,000
Missile Procurement, Army	$21,400,000	$91,900,000
Procurement of Weapons and Tracked Combat Vehicles, Army	$43,900,000	$211,400,000
Procurement of Ammunition, Army	$3,900,000	$30,300,000
Other Procurement, Army	$15,600,000	$123,600,000
Aircraft Procurement, Navy	$86,300,000	$446,100,000
Weapons Procurement, Navy	$48,800,000	$215,600,000
Shipbuilding and Conversion, Navy	$168,700,000	$367,500,000
Other Procurement, Navy	$16,100,000	$117,100,000
Procurement, Marine Corps	$18,200,000	$52,000,000
Aircraft Procurement, Air Force	$212,500,000	$714,500,000
Missile Procurement, Air Force	$53,400,000	$326,400,000
Other Procurement, Air Force	$19,100,000	$181,100,000
National Guard and Reserve Equipment	$900,000	$17,900,000
Procurement, Defense Agencies	$4,000,000	$51,000,000
Research, Development, Test and Evaluation, Army	$1,900,000	$71,200,000
Research, Development, Test and Evaluation, Navy	$2,800,000	$71,900,000
Research, Development, Test and Evaluation, Air Force	$6,000,000	$176,400,000
Research, Development, Test and Evaluation, Defense Agencies	$1,400,000	$84,700,000
Director of Test and Evaluation, Defense	$0	$700,000
Military Construction, Army	$6,800,000	$64,400,000
Military Construction, Navy	$6,800,000	$45,200,000
Military Construction, Air Force	$6,300,000	$43,200,000
Military Construction, Defense Agencies	$1,900,000	$5,300,000
Military Construction, Army National Guard	$0	$2,500,000
Military Construction, Air National Guard	$200,000	$3,300,000
Military Construction, Army Reserve	$0	$1,800,000
Military Construction, Naval Reserve	$0	$1,200,000
Military Construction, Air Force Reserve	$200,000	$1,800,000
North Atlantic Treaty Organization Infrastructure	$0	$8,000,000
Family Housing, Army	$900,000	$19,400,000
Family Housing, Navy and Marine Corps	$400,000	$8,800,000
Family Housing, Air Force	$2,400,000	$12,300,000

100 STAT. 3980

(b) Coordination With Rescissions.—A limitation contained in subsection (a) shall apply only to the extent, and in the amount by which, the amount of the limitation is greater than amounts rescinded (on an account-year basis) in laws appropriating funds for the Department of Defense for fiscal year 1987 that are enacted before December 31, 1986.

SEC. 1306. APPLICABILITY OF LIMITATIONS ON FISCAL YEAR 1987 OBLIGATIONS

The limitations in sections 101(b), 102(a)(2), 102(b)(2), 102(c)(1), 102(c)(2), 102(d)(2), 102(e)(2), 103(b), 104(b), 106(b), and 201(c)—

(1) apply only to funds directly appropriated and funds transferred by provisions in appropriations Acts that specifically identify the funds transferred; and

(2) do not apply to obligations from an account that would be reimbursed from another account or from a source outside the Government.

SEC. 1307. REPORTS ON UNOBLIGATED BALANCES AND ON INFLATION BUDGETING

(a) Periodic Reports.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new sections:

"§ 2215. Reports on unobligated balances

10 USC 2215.

"(a) Required Reports.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives reports (at the times specified under subsection (d)) containing an estimate of the amount of funds in each appropriation account of the Department of Defense that at the time of the report—

"(1) is available for obligation; and

"(2) is in excess of the amount needed to carry out the programs for which the funds were appropriated.

"(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include, set forth separately for each account, estimates of amounts attributable to—

"(1) inflation savings;

"(2) foreign currency savings;

"(3) excess working capital fund cash; and

"(4) all other savings.

"(c) UNANTICIPATED COST INCREASES.—Each such report shall also identify unanticipated cost increases resulting from adverse economic trends.

"(d) SUBMISSION OF REPORTS.—A report shall be submitted to Congress under this section not later than February 1, not later than April 25, and not later than August 15 of each year.

10 USC 2216.

"§ 2216. Annual report on budgeting for inflation

"(a) REPORT ON VARIANCES.—(1) As part of the report required under section 2215 of this title to be submitted not later than February 1 of each year, the Secretary of Defense shall, in the case of each budget account, include a comparison of—

"(A) the amounts appropriated to the Department of Defense to offset anticipated inflation, and

"(B) the amounts estimated, as of the date the report is submitted, to be necessary to offset anticipated inflation.

"(2) In making such estimate, the Secretary shall take into account actual inflation as of the date of such report.

"(b) REQUIREMENT FOR EXPLANATION OF VARIANCES.—The Secretary shall include in the report, in the case of each budget account, the following:

"(1) A discussion of the reasons for any variance between the amounts appropriated to offset anticipated inflation and the amounts estimated, as of the date of such report, to be necessary to carry out the programs for which the appropriations were made.

"(2) An identification of the sources of funds used or proposed to be used to offset any deficiency in the amount appropriated to offset anticipated inflation.

"(3) A description of the disposition or proposed disposition of any amount by which the amount appropriated to offset anticipated inflation exceeds the amount needed for such purpose.

"(c) FISCAL YEARS COVERED BY REPORT.—The comparison and discussion required by this section shall apply to funds available to or for the use of the Department of Defense in the fiscal year during which the report is submitted and in each of the two fiscal years preceding that fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2215. Reports on unobligated balances.
"2216. Annual report on budgeting for inflation.".

10 USC 113 note.

(b) REPEAL.—Section 1407 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 745), is repealed.

10 USC 2215 note.

(c) EFFECTIVE DATE.—(1) The first comparison and discussion under section 2216 of title 10, United States Code (as added by subsection (a)), shall be included in the first report under section 2215 of such title submitted in 1988 and shall include information relating only to fiscal year 1987.

Ante, p. 3980.

(2) The comparison and discussion included in the first report under section 2215 of such title submitted in 1989 shall include information relating only to fiscal years 1987 and 1988.

SEC. 1308. REPORT ON DEFENSE BUDGETING AND CONTRACT PROCEDURES FOR INFLATION

(a) REPORT ON ECONOMIC PRICE ADJUSTMENT CLAUSES.—The Secretary of Defense shall submit to Congress a report on the current practice of the Department of Defense of including in contracts entered into by the Department of Defense to carry out all or a portion of a program for which a Selected Acquisition Report is required an economic price adjustment clause to provide for adjustments in contract prices to compensate for inflation.

(b) INFORMATION TO BE INCLUDED IN REPORT.—The Secretary shall include in the report required by subsection (a) the following information:

(1) The number of contracts that were entered into by the Department of Defense during fiscal year 1986 to carry out all or a portion of a program for which a Selected Acquisition Report was required for any quarter during such fiscal year and that included an economic price adjustment clause referred to in subsection (a).

(2) A description of the different types of such contracts that were entered into during such fiscal year that included an economic price adjustment clause referred to in subsection (a).

(3) A description of the different types of economic price adjustment clauses used by the Department of Defense in such contracts and the reasons for using a particular type of such clause for a particular type of contract.

(c) OTHER MATTERS TO BE REPORTED.—The Secretary shall also include in the report required by subsection (a) the following:

(1) An explanation of the methodology used by the Department of Defense for determining the inflation index to be used in calculating the inflation rate for various budget accounts of the Department of Defense and items within those accounts.

(2) The feasibility of providing to Congress an annual report on actual rates of inflation experienced under contracts of the Department of Defense that are entered into to carry out all or a portion of a program for which a Selected Acquisition Report is required at any time and that include an economic price adjustment clause to provide adjustments in contract prices to compensate for inflation.

(3) A discussion of the relationship between the rate of actual inflation experienced under contracts referred to in clause (2) and the rate of inflation determined under the methodology referred to in clause (1) for determining the inflation index to be used in calculating the inflation rate for major weapon system accounts.

(d) DEADLINE FOR REPORT.—The report required under this section shall be submitted not later than February 1, 1987.

(e) DEFINITION.—For purposes of this section, the term "Selected Acquisition Report" means a report referred to in section 2432 of title 10, United States Code (as redesignated by section 101 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)).

Ante, p. 994.

SEC. 1309. DEBT COLLECTION

(a) IN GENERAL.—Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2780. Debt collection

Contracts.
10 USC 2780.

"(a)(1) Subject to paragraph (2), the Secretary of Defense shall enter into one or more contracts with a person for collection services to recover indebtedness owed to the United States (arising out of activities related to Department of Defense) that is delinquent by more than three months.

"(2) The authority of the Secretary to enter into a contract under this section for any fiscal year is subject to the availability of appropriations.

Report.

"(3) Any such contract shall provide that the person submit to the Secretary a status report on the person's success in collecting such debts at least once each six months. Section 3718 of title 31 shall apply to any such contract, to the extent not inconsistent with this subsection.

"(b) The Secretary shall disclose to consumer reporting agencies, in accordance with paragraph (1) of section 3711(f) of title 31, information concerning any debt described in subsection (a) of more than $100 that is delinquent by more than 31 days.".

100 STAT. 3983

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2780. Debt collection.".

SEC. 1310. CONTINGENT REDUCTION OF AUTHORIZATION OF APPROPRIATIONS

(a) Contingency.—Notwithstanding any other provision of this Act, the amounts authorized to be appropriated by this Act are reduced by the amounts specified in subsection (b) unless a law appropriating funds to or for the military functions of the Department of Defense for fiscal year 1987 provides—

(1) that basic pay, basic allowance for quarters, and basic allowance for subsistence of members of the uniformed services are to be paid on the first day of the month following the month for which the pay and allowances are accrued; or

Contracts.

(2) a reduction in progress payments paid to Department of Defense contractors.

(b) Authorizations To Be Reduced.—The amounts authorized to be appropriated in the title of this Act specified in the following table in the left-hand column are reduced by the amount specified opposite such title in the right-hand column:

Authorizations in Which Reductions Are To Be Made	Amount of Reduction
Division A	
Title I (Procurement)	$3,008,000,000
Title II (Research, Development, Test, and Evaluation)	$1,174,000,000
Title III (Operations and Maintenance)	$1,602,000,000
Division B	
Title VI	$166,000,000
Division C	
Title I (Department of Energy National Security Programs)	$167,000,000

37 USC 1009 note.

(c) Contingent Reduction in Pay Increase.—Subject to the condition specified in subsection (a), the percentage of the increase in basic pay, basic allowance for quarters, and basic allowance for subsistence for members of the uniformed services, and the increase in pay for cadets and midshipmen, specified in sections 601(b) and 601(c), respectively, of this Act is hereby reduced from 3 percent to 2 percent.

Part B—Special Operations Matters

SEC. 1311. SPECIAL OPERATIONS FORCES

Ante, p. 997.

(a) Assistant Secretary of Defense.—Section 136(b) of title 10, United States Code (as amended by section 106 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986), is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense.".

Ante, p. 1011.

(b) Unified Combatant Command.—(1) Chapter 6 of such title (as added by section 211 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433)) is amended by adding at the end the following new section:

"§ 167. Unified combatant command for special operations forces

10 USC 167.

100 STAT. 3984

"(a) Establishment.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the 'special operations command'). The principal function of the command is to prepare special operations forces to carry out assigned missions.

Ante, p. 1012.

"(b) Assignment of Forces.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

"(c) Grade of Commander.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(d) Command of Activity or Mission.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

"(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

"(e) Authority of Combatant Commander.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

Ante, p. 1013.

"(A) Developing strategy, doctrine, and tactics.

"(B) Training assigned forces.

"(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

"(D) Validating requirements.

"(E) Establishing priorities for requirements.

"(F) Ensuring combat readiness.

"(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

"(H) Ensuring the interoperability of equipment and forces.

"(I) Formulating and submitting requirements for intelligence support.

"(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

"(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

"(f) Budget.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

Ante, p. 1016.

100 STAT. 3985

"(1) development and acquisition of special operations-peculiar equipment; and

"(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

"(g) Intelligence and Special Activities.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require—

"(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

"(2) a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413).

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

"(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

"(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

"(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

"(C) are designated as special operations forces by the Secretary of Defense.

"(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

"(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

"(1) Direct action.
"(2) Strategic reconnaissance.
"(3) Unconventional warfare.
"(4) Foreign internal defense.
"(5) Civil affairs.
"(6) Psychological operations.
"(7) Counterterrorism.
"(8) Humanitarian assistance.
"(9) Theater search and rescue.
"(10) Such other activities as may be specified by the President or the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"167. Unified combatant command for special operations forces.".

10 USC 167 note. (c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

100 STAT. 3986

(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.

(f) Board for Low Intensity Conflict.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end the following new subsection:

President of U.S.

"(f) The President shall establish within the National Security Council a board to be known as the 'Board for Low Intensity Conflict'. The principal function of the board shall be to coordinate the policies of the United States for low intensity conflict.".

(g) Deputy Assistant to the President for National Security Affairs for Low Intensity Conflict.—It is the sense of Congress that the President should designate within the Executive Office of the President a Deputy Assistant to the President for National Security Affairs to be the Deputy Assistant for Low Intensity Conflict.

(h) Reports.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Secretary for implementation of this section, including a description of the progress made on such implementation.

10 USC 167 note.

(2) Not later than one year after the date of the enactment of this Act, the President shall transmit to Congress a report on the capabilities of the United States to conduct special operations and engage in low intensity conflicts. The report shall include a description of the following:

(A) Deficiencies in such capabilities.

(B) Actions being taken throughout the executive branch to correct such deficiencies.

(C) The principal low intensity conflict threats to the interests of the United States.

(D) The actions taken and to be taken to implement this section.

10 USC 167 note.

(i) Effective Date.—Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act.

(j) Funding for Fiscal Year 1987.—The Secretary of Defense may spend unobligated funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 in such sums as necessary in order to carry out this section and section 167 of title 10, United States Code (as added by subsection (b)), during fiscal year 1987.

100 STAT. 3987

SEC. 1312. SPECIAL OPERATIONS AIRLIFT

(a) Modification of Existing Aircraft.—Of the funds appropriated for fiscal year 1987 for modification of Air Force aircraft, $106,500,000 shall be available only for the modification of CH/HH-53 airframes to the "PAVE LOW" enhanced configuration.

(b) Development of Helicopter Variants.—(1) The Secretary of the Army shall proceed, through full and open competition, with development of an MH-47 variant of the CH-47 helicopter. The Secretary shall be designated as the executive agent for a joint services development program for a special operations/combat rescue variant of the HH/MH-60 helicopter.

(2) In conducting such development under paragraph (1), the Secretary shall ensure—

(A) that there is developed one baseline H-60 aircraft capable of operations from both land and shipboard;

Contract.

(B) that there is maximum practicable logistics commonality among those aircraft to be procured by either the Army, Navy, or Air Force and that the contract for acquisition of the joint services aircraft assures maximum economic-order quantity benefits to the United States; and

(C) that there is maximum practicable commonality between the avionics architecture selected for the HH/MH-60 variant aircraft and the MH-47 variant aircraft.

Report.

(3) Upon successful development and test of the MH-47 aircraft, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such development and testing. Such report shall include the Secretary's recommendation as to whether the replacement for the HH-53 aircraft as the long-range, strategic rotary-wing aircraft for the Armed Forces should be the MH-47 aircraft or a special operations/combat rescue variant of the CV-22A aircraft (or another advanced-technology aircraft). If the recommendation of the Secretary is in favor of the CV-22A aircraft (or another advanced-technology aircraft), the Secretary of the Army may justify in the budget planning process procurement of the MH-47 aircraft as necessary to fill immediately the heavy-lift mission requirements of the Special Operations Aviation Brigade of the Army.

Report.

(4) Upon successful development and test of the HH/MH-60 helicopter under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a detailed acquisition strategy for such helicopter. Such acquisition strategy shall—

(A) provide for timely and adequate procurement of the HH/MH-60 aircraft for the Special Operations Aviation Brigade of the Army and for aviation detachments assigned to individual Special Forces groups;

(B) provide for timely and adequate procurement of the HH/MH-60 aircraft for support of naval special warfare units and for fleet combat search and rescue missions; and

(C) provide for timely and adequate replacement for theater special operations/combat search and rescue HH-3 helicopters of the Air Force with the HH/MH-60 helicopter.

(c) REQUIREMENTS OF SPECIAL OPERATIONS COMMANDER.—(1) The commander of the unified combatant command established pursuant to section 167 of title 10, United States Code (as added by section 1311), shall develop a plan to meet the immediate strategic special operations airlift requirements.

100 STAT. 3988

Report.

(2) The Secretary of Defense, after consultation with the commander of such command, shall submit to Congress a report, no later than June 1, 1987, setting forth the funding requirements necessary to implement during fiscal year 1988 the plan developed under paragraph (1).

PART C—AUTHORIZATION OF PAYMENT OF CERTAIN EXPENSES WITH RESPECT TO DEVELOPING COUNTRIES

SEC. 1321. AUTHORITY TO PAY EXPENSES OF DEVELOPING COUNTRIES FOR PARTICIPATION IN COMBINED MILITARY EXERCISES

(a) AUTHORITY TO PAY EXPENSES.—(1) Chapter 101 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2010.

"§ 2010. Participation of developing countries in combined exercises: payment of incremental expenses

"(a) The Secretary of Defense, after consultation with the Secretary of State, may pay the incremental expenses of a developing country that are incurred by that country as the direct result of participation in a bilateral or multilateral military exercise if—

"(1) the exercise is undertaken primarily to enhance the security interests of the United States; and

"(2) the Secretary of Defense determines that the participation by such country is necessary to the achievement of the fundamental objectives of the exercise and that those objectives cannot be achieved unless the United States provides the incremental expenses incurred by such country.

Report.

"(b) The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

"(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

"(2) the amounts expended on behalf of each government.

"(c) The Secretary of Defense shall establish by regulation such accounting procedures as may be necessary to ensure that funds expended under this section are properly expended.

Regulation.

"(d) In this section, the term 'incremental expenses' means the reasonable and proper cost of the goods and services that are consumed by a developing country as a direct result of that country's participation in a bilateral or multilateral military exercise with the United States, including rations, fuel, training ammunition, and transportation. Such term does not include pay, allowances, and other normal costs of such country's personnel.

"(e) Not more than $13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2010. Participation of developing countries in combined exercises: payment of incremental expenses.".

(b) Expenditure Limitation for Fiscal Year 1987.—Not more than $1,600,000 may be obligated or expended for the purposes of section 2010 of title 10, United States Code (as added by subsection (a)), during fiscal year 1987.

100 STAT. 3989

SEC. 1322. AUTHORITY TO PAY CERTAIN EXPENSES OF DEFENSE PERSONNEL OF DEVELOPING COUNTRIES

(a) In General.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1050 the following new section:

"§ 1051. Bilateral or regional cooperation programs: payment of personnel expenses

10 USC 1051.

"(a) The Secretary of Defense may pay the travel, subsistence, and similar personal expenses of defense personnel of developing countries in connection with the attendance of such personnel at a bilateral or regional conference, seminar, or similar meeting if the Secretary determines that the attendance of such personnel at such conference, seminar, or similar meeting is in the national security interests of the United States.

Defense and national security.

"(b)(1) Except as provided in paragraph (2), expenses authorized to be paid under subsection (a) may be paid on behalf of personnel from a developing country only in connection with travel within the area of responsibility of the unified combatant command (as such term is defined in section 161(c) of this title) in which the developing country is located.

Ante, p. 1012.

"(2) In a case in which the headquarters of a unified combatant command is located within the United States, expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the United States to attend a bilateral or regional conference, seminar, or similar meeting.

"(3) Expenses authorized to be paid under subsection (a) may not, in the case of any individual, exceed the amount that would be paid under chapter 7 of title 37 to a member of the armed forces of the United States (of a comparable grade) for authorized travel of a similar nature.

37 USC 401 *et seq.*

"(c) In addition to the expenses authorized to be paid under subsection (a), the Secretary of Defense may pay such other expenses in connection with any such conference, seminar, or similar meeting as the Secretary considers in the national security interests of the United States.

"(d) The authority to pay expenses under this section is in addition to the authority to pay certain expenses and compensation of officers and students of Latin American countries under section 1050 of this title.

10 USC 1050.

Report.

"(e) Not later than March 1 each year, the Secretary of Defense shall submit to Congress a report containing—

"(1) a list of the developing countries for which expenses have been paid under this section during the preceding fiscal year and

"(2) the amount paid by the United States in the case of each such country.

"(f) During each of fiscal years 1987, 1988, and 1989, not more than $800,000 may be obligated or expended under this section.

"(g) The authority of the Secretary of Defense under this section shall expire on September 30, 1989.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1050 the following new item:

100 STAT. 3990

"1051. Bilateral or regional cooperation programs: payment of personnel expenses.".

Part D—Miscellaneous Reports

SEC. 1331. ARMY NATIONAL GUARD REPORTING

The Secretary of Defense shall require the Chief of the National Guard Bureau to develop and implement procedures to monitor the backlog of maintenance and repair projects of Army National Guard armories.

SEC. 1332. SUBMARINE OVERHAUL STUDY

(a) Study.—The Secretary of the Navy shall conduct a detailed study and investigation on the desirability and feasibility of applying production line techniques for the overhaul of Los Angeles-class submarines.

(b) Report.—Not later than May 1, 1987, the Secretary shall submit to Congress a report on the results of such study and investigation, together with such comments and recommendations as the Secretary considers appropriate.

SEC. 1333. REPORT ON LANDING AREA FOR AV-8B HARRIER AIRCRAFT ON IOWA-CLASS BATTLESHIP

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the feasibility and possible benefits of removing the rear turret from an Iowa-class battleship to create a landing area for AV-8B Harrier aircraft.

SEC. 1334. REPORT ON CLEANUP OF NATIONAL PRESTO INDUSTRIES

Wisconsin.

The Secretary of Defense shall investigate and report to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1987, on the sources, dates of origin, and responsibility for hazardous waste contamination at the National Presto Industries Plant near Eau Claire, Wisconsin.

Part E—Technical and Clerical Amendments

SEC. 1341. TECHNICAL CORRECTION TO DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

37 USC 403 note.

(a) Correction of BAQ Save-Pay.—Section 602(a)(2) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2534), is amended—

(1) by striking out "During the period" and all that follows through "paragraph (1)" and inserting in lieu thereof "(A) During the period described in subparagraph (B)";

(2) by striking out "on or after January 1, 1985, and before the date of any such change" and inserting in lieu thereof "during such period"; and

(3) by adding at the end the following:

"(B) The period referred to in subparagraph (A) is the period beginning on January 1, 1985, and ending on the effective date of a change made by law in the rates of basic allowance for quarters that increases the rates for such allowance to a level not less than 7 percent greater than the rates in effect on January 1, 1985.".

37 USC 403 note.

(b) **Effective Date.**—The amendments made by subsection (a) shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever is later.

SEC. 1342. TECHNICAL CORRECTIONS TO PROVISIONS ENACTED BY DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1986

(a) Aviation Pay.—Paragraph (1) of section 301(a) of title 37, United States Code (as amended by section 635(a)(1)(A) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 647)), is amended to read as follows:

"(1) involving frequent and regular participation in aerial flight as a crew member, as determined by the Secretary concerned, except for a member who is entitled to incentive pay under section 301a of this title;".

37 USC 403a note.

(b) Clarification of VHA Save Pay.—Section 602(f)(2) of the Department of Defense Authorization Act, 1985 (Public Law 98-525) (as amended by section 603(b) of the Department of Defense Authorization Act, 1986 (99 Stat. 637)), is amended—

(1) by striking out "departs that station as a result of" in subparagraph (B)(i) and inserting in lieu thereof "changes residence in conjunction with"; and

(2) in subparagraph (C)—

(A) by striking out "Any member" and inserting in lieu thereof "A member"; and

Alaska.
Hawaii.

(B) by striking out "under paragraph" and all that follows and inserting in lieu thereof ", except that such a member serving an unaccompanied tour of duty in Alaska or Hawaii may be paid a variable housing allowance based on the residence of the member's dependents in another State.".

37 USC 302b note.

(c) Dental Officers' Save Pay.—Section 639(d) of the Department of Defense Authorization Act, 1986 (99 Stat. 651), is amended—

(1) by striking out "shall be entitled to such pay in an annual amount that is not less than" and inserting in lieu thereof "may (notwithstanding the provisions of such section and in the discretion of the Secretary concerned) be paid such pay, in order to prevent inequities, in an annual amount equal to"; and

(2) by striking out "was entitled on September 30, 1985." and inserting in lieu thereof "would have been entitled on September 30, 1985, in accordance with the status of the officer (as determined by the Secretary concerned) during the period for which the pay is paid. Notwithstanding the preceding sentence, an officer may not be paid special pay by reason of this paragraph in an amount greater than the amount of special pay to which the officer was entitled under such sections on September 30, 1985.".

(d) Reserve Medical Officers' Special Pay.—Subparagraph (B) of section 302(h)(1) of title 37, United States Code (as amended by section 640 of the Department of Defense Authorization Act, 1986 (99 Stat. 652)), is amended to read as follows:

"(B) who is on active duty under a call or order to active duty for a period of less than one year;".

22 USC 2752, 2752 note, 2753, 2767, 2791.
22 USC 2751 note.

(e) Repeal of Duplicative Amendments.—Subsection (a) of section 1102 of the Department of Defense Authorization Act, 1986 (99 Stat. 708), and the amendments made by that subsection are repealed, and the Arms Export Control Act shall apply as if that subsection had not been enacted.

50 USC app. 2168.

(f) Correction of Section Reference.—Section 719(h)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2169(h)(1)), as

100 STAT. 3992

99 Stat. 700.

amended by section 934(b) of the Department of Defense Authorization Act, 1986, is amended by striking out "Public Law 92-41" in the third sentence and inserting in lieu thereof "section 105(b)(2) of the Renegotiation Act of 1951".

50 USC app. 1215.

10 USC 3851.

(g) CORRECTION OF SECTION AMENDED.—Section 522(a)(2) of Department of Defense Authorization Act, 1986 (99 Stat. 631), is amended by striking out "Section 3851(c)" and inserting in lieu thereof "Section 3851(d)", and the subsection inserted by the amendment made by that section is redesignated as subsection (d).

(h) EFFECTIVENESS OF AMENDMENTS.—

37 USC 301 note.

(1) The amendments made by subsections (a) through (d) shall take effect on October 1, 1986, or the date of the enactment of this Act, whichever is later.

50 USC app. 2168 note.

99 Stat. 583.

(2) The amendments made by subsections (f) and (g) shall apply as if included in the enactment of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

SEC. 1343. CLERICAL AMENDMENTS

(a) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1) The text of section 775 (as redesignated by section [502]) is amended to read as follows:

"This chapter applies in—

"(1) the United States;

"(2) the territories, commonwealths, and possessions of the United States; and

"(3) all other places under the jurisdiction of the United States.".

(2) Section 976(a)(1) is amended by striking out the second comma before "(B)".

(3) Section 1035 is amended by striking out "armed force" in subsection (a) and inserting in lieu thereof "armed forces".

(4) Section 1087(b)(2) is amended by striking out "title XVIII" and all that follows and inserting in lieu thereof "title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)).".

(5) Section 1094(d) is amended by realigning paragraph (2) so as to be indented two ems (rather than four ems).

(6) Section 1208(a)(2)(A) is amended by striking out "after February 2, 1901".

(7) Section 1216(d) is amended by striking out "who is in pay grade" and all that follows through "Air Force" and inserting in lieu thereof "who is a general officer or flag officer or is a medical officer".

(8)(A) Section 1447(2)(A) is amended by striking out "or retainer" both places it appears.

(B) Section 1448(a)(5) is amended by striking out "an annuity by virtue of eligibility under paragraph (1)(B)" in the fourth sentence and inserting in lieu thereof "a reserve-component annuity".

(C) Section 1450(c) is amended by inserting "dependency and indemnity" before "compensation" the first place it appears in the first sentence.

(D) Section 1451(a)(1)(A) is amended by striking out "subsection" and inserting in lieu thereof "section".

(E) Section 1452(h) is amended by striking out "and retainer"

(9) Section 1603 is amended—

100 STAT. 3993

(A) by striking out "this" after "Nothing in"; and

(B) by striking out "this sections 1601 and 1602 of this title" and inserting in lieu thereof "those sections".

(10) The heading of section 1623 is amended to read as follows:

"§ 1623. Education, training, and experience requirements: flag and general officers".

(11) Section 2236(b) is amended by striking out ", territory, the Commonwealth of Puerto Rico, or the District of Columbia, as the case may be,".

(12) The item relating to section 2319 in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2319. Encouragement of new competitors.".

(13) Section 2302(2)(A) is amended by striking out "(41 U.S.C." and inserting in lieu thereof "(40 U.S.C.".

(14) Section 2304(b)(2) is amended by striking out "15 U.S.C. 639;" and inserting in lieu thereof "15 U.S.C. 638,".

(15) Section 2407(g)(2) is amended by striking out "the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b))" and inserting in lieu thereof "section 2631 of this title and section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))".

(16) Section 2672 is amended—

(A) by inserting "(1)" in subsection (a) after "(a)";

(B) by striking out "he or his designee" in clause (A) of subsection (a) and inserting in lieu thereof "the Secretary";

(C) by designating the second sentence of subsection (a) as paragraph (2);

(D) by transferring the third sentence of subsection (a) to the end of the section and designating that sentence as subsection (c); and

(E) by striking out "**interest**" in the section heading and inserting in lieu thereof "**interests**".

(17)(A) Section 2676(c)(2)(B) is amended by striking out "the agreed" and all that follows through "exceeds the" and inserting in lieu thereof "the agreed price for the land or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land, exceeds the".

10 USC 2676 note.

(B) The amendment made by subparagraph (A) shall take effect as if included in the enactment of section 802(2) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1519).

(18) Section 2683(b) is amended by striking out "this" before "subsection (a)".

(19) Section 2775 is amended—

(A) in subsection (a)(1), by striking out "it is" and all that follows through "that the" and inserting in lieu thereof "(as determined under regulations prescribed by the Secretary of Defense or the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy) the";

(B) in subsection (b)—

(i) by inserting a comma after "Secretary of Defense";

100 STAT. 3994

(ii) by striking out "when the Coast Guard" and inserting in lieu thereof "with respect to the Coast Guard when it"; and

(iii) by inserting a comma after "Navy"; and

(C) in subsection (e), by striking out "when the Coast Guard" and inserting in lieu thereof "with respect to the Coast Guard when it".

10 USC 2809.

(20) Section 2809 is amended—

(A) in subsection (a)(1)—

(i) by striking out "contracts" and inserting in lieu thereof "a contract";

(ii) by striking out "facilities" the first place it appears and inserting in lieu thereof "a facility";

(iii) by striking out "military installations" and inserting in lieu thereof "a military installation";

(iv) by inserting a comma after "waste water treatment";

(v) by striking out "cases" and inserting in lieu thereof "a case";

(vi) by striking out "facilities" the second place it appears and inserting in lieu thereof "facility"; and

(vii) by striking out "long-term contracts" and inserting in lieu thereof "a long-term contract";

(B) in subsection (a)(2), by striking out "subsection (a)" and inserting in lieu thereof "this section";

(C) in subsection (a)(3), by striking out "twenty" and inserting in lieu thereof "20";

(D) in subsection (a)(4), by striking out "the" before "Congress"; and

(E) in subsection (b), by striking out "the authority of subsection (a) of".

(21)(A) Section 2860 is amended—

(i) by striking out "defense agency" and inserting in lieu thereof "to the Secretary of Defense";

(ii) by inserting "for obligation" after "remain available"; and

(iii) by striking out "the" before "appropriation Acts".

(B) The item relating to that section in the table of sections at the beginning of subchapter III of chapter 169 is amended by striking out the last three words.

(22) The items relating to chapter 138 in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part IV of subtitle A, are amended by striking out "2321" and inserting in lieu thereof "2341".

(23) Section 5155(c) is amended by striking out "commodore" and inserting in lieu thereof "rear admiral (lower half)".

(24) The heading of section 5442 is amended by striking out the second colon and inserting in lieu thereof a semicolon.

(25) Section 1051(d) is amended—

(A) by striking out "that title" in paragraph (1) and inserting in lieu thereof "title 37"; and

(B) by striking out "and 'uniformed services' have the meanings given those terms" in paragraph (2) and inserting in lieu thereof "has the meaning given that term".

100 STAT. 3995 (b) AMENDMENTS TO TITLE 37.—

(1) Section 302(i) of title 37, United States Code, is amended by striking out "paragraph (1) of this subsection" and inserting in lieu thereof "subsection (c)(2) or (f) of this section".

(2) Section 404(d)(1)(C) of such title is amended by striking out "clause (1) of this subsection" and inserting in lieu thereof "subparagraph (A) of this paragraph".

(3) The heading of section 405a of such title is amended to read as follows:

"§ 405a. Travel and transportation allowances: departure allowances".

(c) AMENDMENTS TO TITLE 14.—Sections 256(b) and 288(a) of title 14, United States Code, are amended by striking out "commodore" and inserting in lieu thereof "rear admiral (lower half)".

PART F—MISCELLANEOUS

SEC. 1351. LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

10 USC 114 note. (a) LIMITATION.—Notwithstanding title II of the Military Construction Appropriations Act, 1987, or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are author-

ized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).

(b) Report.—Before funds appropriated or otherwise made available to the Department of Defense are released to be used for the purpose described in subsection (a), the Secretary of Defense shall submit to Congress a report describing the specific source of such funds.

SEC. 1352. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

SEC. 1353. PROMPT REPORTING OF INTELLIGENCE ON TERRORIST THREATS

(a) In General.—(1) Subject to subsection (b), the Secretary of Defense shall instruct all appropriate officials of the Department of Defense to take such action as may be necessary to ensure that all credible, time-sensitive intelligence received by or otherwise available to United States officials concerning potential terrorist threats to—

(A) United States citizens or facilities (including citizens and facilities overseas); or

(B) any other potential target for terrorist activities designated by the Secretary,

is reported promptly to the headquarters or office of the Department of Defense concerned.

100 STAT. 3996

(2) The Secretary shall instruct such officials that such intelligence is to be reported through the most appropriate and expeditious communications facilities available to the Department of Defense.

(b) Waiver.—The Secretary of Defense shall not be required to issue the instructions referred to in subsection (a) if—

(1) the Secretary determines that such instructions would be inappropriate or unwise; and

(2) before March 1, 1987, notifies Congress of that determination and includes with the notification an explanation of the basis for such determination.

SEC. 1354. USE OF MARINE MAMMALS FOR NATIONAL DEFENSE PURPOSES

(a) In General.—Chapter 645 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7524. Marine mammals: use for national defense purposes

10 USC 7524.

"(a) Authority.—Subject to subsection (c), the Secretary of Defense may authorize the taking of not more than 25 marine mammals each year for national defense purposes. Any such authorization may be made only with the concurrence of the Secretary of Commerce and after consultation with the Marine Mammal Commission established by section 201 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1401).

"(b) Humane Treatment Required.—A mammal taken under this section shall be captured, supervised, cared for, transported, and deployed in a humane manner consistent with conditions established by the Secretary of Commerce.

"(c) Protection for Endangered Species.—A mammal may not be taken under this section if the mammal is determined to be a member of an endangered or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533).

"(d) Application of Other Act.—This section applies without regard to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new subsection:

"7524. Marine mammals: use for national defense purposes.".

SEC. 1355. REIMBURSEMENT FOR INCIDENTAL EXPENSES INCURRED WHILE PROVIDING VOLUNTARY SERVICES

Section 1588 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(c) The Secretary concerned may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under subsection (a) as an ombudsman or for a family service center program. The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may only be made from nonappropriated funds.".

SEC. 1356. DEFENSE OF LEGAL MALPRACTICE SUITS

(a)(1) IN GENERAL.—Chapter 53 of title 10, United States Code (as amended by section 662), is amended by adding at the end the following new section:

100 STAT. 3997

10 USC 1054.

"§ 1054. Defense of certain suits arising out of legal malpractice

"(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32), in connection with providing legal services while acting within the scope of the person's duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

"(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any person against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person (or an attested true copy thereof) to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers. Such person shall promptly furnish copies of the pleading and process therein—

"(1) to the United States attorney for the district embracing the place wherein the action or proceeding is brought;

"(2) to the Attorney General; and

"(3) to the head of the agency concerned.

"(c) Upon a certification by the Attorney General that a person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court—

"(1) shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending; and

"(2) shall be deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available against the United States, the case shall be remanded to the State court.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. Claims.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to a cause of action arising out of a negligent or wrongful act or omission in the provision of legal assistance.

"(f) The head of the agency concerned may hold harmless or provide liability insurance for any person described in subsection (a) for damages for injury or loss of property caused by such person's negligent or wrongful act or omission in the provision of authorized legal assistance while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with an entity other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury. Insurance.

"(g) In this section, the term 'head of the agency concerned' means the Secretary of Defense or the Secretary of a military department.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1054. Defense of certain suits arising out of legal malpractice.".

(b) Effective Date.—Section 1054 of title 10, United States Code, as added by subsection (a), shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent or wrongful act or omission occurred. 10 USC 1054 note.

SEC. 1357. OFF-POST RENTAL HOUSING LEASE INDEMNITY PILOT PROGRAM

(a) Establishment of Program.—(1) The Secretary of Defense shall establish a pilot program to test the feasibility of implementing a program under which the Secretary of a military department may guarantee compensation of any person who leases a rental unit to any member of the Armed Forces under the jurisdiction of the Secretary for any breach of any lease or any damage to the rental unit by the member.

(2) The program referred to in paragraph (1) shall be established not later than the end of the 90-day period beginning on the date of the enactment of this Act.

(b) Content of Program.—(1) In accordance with action taken by the Secretary of Defense under subsection (a), the Secretary of each military department shall designate one military installation in the United States that is under the jurisdiction of such Secretary to participate in the program established under subsection (a).

(2) For purposes of carrying out this section, the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any person who leases a rental unit to any member of the Armed Forces under the jurisdiction of the Secretary. Any agreement under this paragraph shall provide that—

(A) the term of the agreement shall not be for more than one year;

(B) the member shall not pay a security deposit;

(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the lessor for any breach of the lease by the member and for any damage to the rental unit caused by the member or by any guest or dependent of the member;

(D) the total liability of the Secretary for any breach of the lease or for any damage described in subparagraph (C) shall not exceed an amount equal to the amount that the Secretary determines would have been required by the lessor as a security deposit absent the agreement authorized in this paragraph;

(E) the Secretary shall not compensate the lessor for any breach of the lease or for any damage described in subparagraph (C) until the lessor exhausts any remedies available to the lessor against the member for the breach or damage; and

100 STAT. 3999

(F) the Secretary shall be subrogated to the rights of the lessor in any case in which the Secretary compensates the lessor for any breach of the lease or for any damage described in subparagraph (C).

(3) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

(c) Recovery From Member.—Any Secretary who compensates any lessor under subsection (b) for any damage to a rental unit or any breach of a lease by a member of the Armed Forces may issue a special order under section 1007 of title 37, United States Code, to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the lessor as compensation for the breach or damage.

(d) Report Requirement.—(1) The Secretary of Defense shall submit to Congress a report concerning the pilot program established under subsection (a), including—

(A) findings and conclusions of the Secretary with respect to the pilot program; and

(B) recommendations as to the feasibility of implementing a program similar to the pilot program on all military installations.

(2) The report under paragraph (1) shall be submitted not later than the end of the 18-month period following the date of the establishment of the pilot program under subsection (a).

(e) Termination of Authority.—The authority of the Secretary of a military department to enter into a contract under subsection (b) shall terminate at the end of the 18-month period following the date of the establishment of the pilot program under subsection (a).

5 USC 5343 note.

SEC. 1358. WAGE RATE FOR CERTAIN CORPS OF ENGINEERS EMPLOYEES

(a) Wage Determinations.—Notwithstanding any other provision of law, in the administration of the last undesignated paragraph preceding chapter 6 of title I of Public Law 97-257 (96 Stat. 832), the individuals described in subsection (b) shall be paid wages determined in the same manner as that established in such undesignated paragraph with respect to United States Army Corps of Engineers employees paid from Corps of Engineers Special Power Rate Schedules.

Michigan.

(b) Covered Individuals.—The individuals described in subsection (a) are electric powerplant controllers and powerplant shift operators (as defined under regulations prescribed by the Secretary of Defense) assigned to the Soo Locks Power Plant in the Detroit District in the North Central Region of the United States Army Corps of Engineers.

(c) Effective Date.—Subsection (a) applies with respect to pay periods commencing on or after the date of the enactment of this Act.

SEC. 1359. REIMBURSEMENT FOR TRANSFERRED DEFENSE INDUSTRIAL RESERVE EQUIPMENT

(a) In General.—Section 4 of the Defense Industrial Reserve Act (50 U.S.C. 453) is amended—

(1) by inserting "(a)" before "To execute"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of a military department to which equipment or other property is transferred from the Defense Industrial Reserve shall reimburse appropriations available for the purposes of the Defense Industrial Reserve for the full cost (including direct and indirect costs) of— 100 STAT. 4000

"(A) storage of such property;

"(B) repair and maintenance of such property; and

"(C) overhead allocated to such property.

"(2) The Secretary of Defense shall prescribe regulations establishing general policies and fee schedules for reimbursements under paragraph (1).". Regulations.

(b) EFFECTIVE DATE.—(1) The regulations required to be prescribed by subsection (b) of section 4 of the Defense Industrial Reserve Act, as added by subsection (a), shall be prescribed not later than 60 days after the date of the enactment of this Act. 50 USC 453 note.

(2) The requirement for reimbursement under such subsection shall apply with respect to property transferred from the Defense Industrial Reserve to a military department after the date on which such regulations are prescribed.

SEC. 1360. EXTENSION OF EXEMPTION FOR DOD POLYGRAPH TEST PROGRAM

Section 1221(e) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 727), is amended—

(1) by striking out "or" at the end of clause (2);

(2) in clause (3)—

(A) by striking out "cryptologic" and inserting in lieu thereof "cryptographic"; and

(B) by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(4) to any polygraph examination conducted under the authorization granted by the Secretary of Defense on August 31, 1982, on a person who is participating in a national program—

"(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

"(B) which is under the purview of the Director of Central Intelligence; and

"(C) for which a requirement for a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

The number of examinations conducted pursuant to such authorization during fiscal year 1987 may not exceed the number conducted pursuant to such authorization during fiscal year 1986.".

SEC. 1361. IDENTIFICATION OF FACILITIES FOR THE DETENTION OF CERTAIN ALIENS

Not later than January 15, 1987, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) a list of facilities under the jurisdiction of the Department of Defense that are suitable for use for the detention of Marielito criminal aliens and that are not otherwise needed by the Department of Defense; and

(2) a statement of the estimated costs of using such facilities for the detention of such aliens.

100 STAT. 4001

SEC. 1362. CORRECTIONAL FACILITIES AT FORT RILEY, KANSAS

The correctional facilities at Fort Riley, Kansas, may not be closed, transferred, or relocated unless—

(1) the Secretary of Defense transmits to Congress a written notice of the intent to close, transfer, or relocate such facilities, as the case may be; and

(2) the 180-day period beginning on the date on which Congress receives such notice has expired.

SEC. 1363. MINUTEMAN EDUCATION PROGRAM

Report.

(a) RESTRICTION ON CHANGE IN SOURCE.—The Secretary of the Air Force may not change the source providing graduate educational services for the Minuteman Education Program from the source providing such services on May 1, 1986, until 60 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report setting forth the Secretary's decision to change the source of such services and the reasons for such decision.

(b) SUNSET PROVISION.—The provisions of subsection (b) expire one year after the date of the enactment of this Act.

SEC. 1364. FOREIGN ESPIONAGE ACTIVITIES IN THE UNITED STATES

Union of Soviet Socialist Republics.

(a) CONGRESSIONAL FINDINGS AND POLICIES.—The Congress makes the following findings:

(1) The conduct of espionage activities (including the collection of classified and unclassified technological information) by the diplomatic and consular missions of the Soviet Union and certain other foreign diplomatic and consular missions within the United States (as well as by certain employees of international organizations acting on behalf of the Soviet Union or certain other foreign countries) represents a grave threat to the security of the United States.

(2) The conduct of such activities constitutes a gross abuse of the rights, privileges, and immunities accorded to persons assigned to such missions, including the right to enter and reside within the United States (or any particular area thereof).

(3) The Soviet Union and certain other countries take advantage of the free and open society of the United States to carry out espionage against the United States.

(4) The United States should take immediate and effective action to counteract espionage by the Soviet Union and certain other countries.

International agreements.

(5) It is fully consistent with international law and the international obligations of the United States to take reasonable measures to prevent such activities, including measures which would (A) impose restrictions on the travel of such foreign officials within the United States, and (B) close to such officials certain areas of the United States.

International organizations.

(b) CONGRESSIONAL POLICY.—The Congress declares that it is the policy of the United States to impose appropriate restrictions (including travel restrictions) on the official representatives of any foreign country, as well as upon the nationals of such country who are employed by international organizations, when the President determines that a pattern of abuses by that nation exists.

President of U.S.

(c) REPORT ON FOREIGN ESPIONAGE.—(1) The President shall submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives a report on foreign espionage in the United States. Such report shall include the following:

(A) An assessment of the effect of espionage activities in the United States conducted by the Soviet Union and certain other countries whose intelligence activities pose a threat to the national security of the United States.

(B) An assessment of how such countries use the freedom to travel within the United States, accorded to the officials of such countries, to engage in espionage activities against the United States.

Defense and national security.

(C) An assessment of the advantages and disadvantages of the principle of diplomatic reciprocity and the consequences of such reciprocity on the national security of the United States.

(D) Recommendations for measures to curtail espionage against the United States, including the following:

(i) Prohibiting the personnel of certain foreign governments and certain international organizations from traveling in designated areas of the United States.

(ii) Identifying the governments to whose nationals such restrictions are to apply.

(iii) Identifying those foreign governments which have closed certain areas of their countries to United States diplomatic and consular personnel and, in the case of each such country, the number of such closed areas and the size of such areas in relation to the total area of the country.

(2) The report shall be prepared under the direction of the Secretary of State and in close cooperation with the Secretary of Defense, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation.

(3) The report required by paragraph (1) shall be submitted in both a classified and unclassified version.

(4) Such report shall be submitted not later than March 1, 1987.

SEC. 1365. CIVIL AIR PATROL

(a) PAYMENT OF EXPENSES OF PLACING EQUIPMENT INTO SERVICEABLE CONDITION —Section 9441(b)(9) of title 10, United States Code, is amended by striking out "a major item of equipment furnished to the Civil Air Patrol under clause (1)" and inserting in lieu thereof "major items of equipment (including aircraft, motor vehicles, and communications equipment) owned by the Civil Air Patrol".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to funds appropriated for fiscal years after fiscal year 1986.

10 USC 9441 note.

SEC. 1366. AMENDMENT OF MILITARY SELECTIVE SERVICE ACT TO PROVIDE ELIGIBILITY FOR BENEFITS TO CERTAIN PERSONS WHO FAIL TO REGISTER

Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) (relating to penalties) is amended—

(1) by striking out "Any person" in subsection (f)(1) and inserting in lieu thereof "Except as provided in subsection (g), any person"; and

(2) by adding at the end the following new subsection:

100 STAT. 4003

"(g) A person may not be denied a right, privilege, or benefit under Federal law by reason of failure to present himself for and submit to registration under section 3 if—

"(1) the requirement for the person to so register has terminated or become inapplicable to the person; and

"(2) the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.".

50 USC app. 2216.

SEC. 1367. CORRECTION OF EFFECTS OF CONTAMINATION AT ROCKY MOUNTAIN ARSENAL

(a) USE OF AMOUNTS RECEIVED FROM LITIGATION.—(1) Any amount received as the result of the litigation described in paragraph (2) (whether from a judgment rendered in such litigation or from a settlement of such litigation) shall be available, without fiscal year limitation, to the Secretary of the Army only for purposes of correcting the effects of contamination at the Rocky Mountain Arsenal.

(2) The litigation referred to in paragraph (1) is any litigation between the United States and any person concerning the liability of such person for correcting the effects of contamination at the Rocky Mountain Arsenal or for cost recovery relating to correcting the effects of such contamination.

(b) ACCEPTANCE OF SERVICES.—In partial settlement of the litigation described in subsection (a), the United States may accept services that correct the effects of contamination at the Rocky Mountain Arsenal.

SEC. 1368. SENSE OF CONGRESS REGARDING THE DEATH OF LIEUTENANT COLONEL ARTHUR D. NICHOLSON, JUNIOR

(a) FINDINGS.—The Congress finds the following:

(1) On March 24, 1985, Lieutenant Colonel Arthur D. Nicholson, Junior, of the United States Army (then holding the grade of major) was carrying out his official duties as a liaison officer of the United States Military Liaison Mission.

(2) On that date, Lieutenant Colonel Nicholson was performing his duties in uniform and in an open and direct manner, according to orders, and was conducting himself in a way which was neither provocative nor beyond the limits of proper conduct for members of the United States Military Liaison Mission, and which was well understood and accepted by the Soviet Union.

Union of Soviet Socialist Republics.

(3) On that date, a member or members of the armed forces of the Soviet Union shot and fatally wounded Lieutenant Colonel Nicholson without warning and without provocation.

(4) After having shot Lieutenant Colonel Nicholson, members of the armed forces of the Soviet Union forcibly restrained Lieutenant Colonel Nicholson's aide and prevented him from providing medical assistance to Lieutenant Colonel Nicholson, so that Lieutenant Colonel Nicholson died slowly and with great suffering, which death and suffering might have been prevented had Lieutenant Colonel Nicholson been permitted to receive assistance.

(5) The death of Lieutenant Colonel Nicholson was an untimely, unnecessary, cold-blooded murder committed against a United States military officer in pursuit of his official duties by a member or members of the armed forces of the Soviet Union, in a painful and degrading manner.

Union of Soviet Socialist Republics.

(b) SENSE OF CONGRESS.—The Congress deplores and condemns the cold-blooded murder of Lieutenant Colonel Arthur D. Nicholson, Junior. It is the sense of Congress that the Government of the Soviet Union should—

(1) apologize for and renounce the murder of Lieutenant Colonel Nicholson; and

(2) indemnify the family of Lieutenant Colonel Nicholson financially.

SEC. 1369. DEADLINE FOR APPOINTMENT OF MEMBERS OF COMMISSION ON MERCHANT MARINE AND DEFENSE

President of U.S.

The President shall appoint members of the Commission on Merchant Marine and Defense as required by section 1536(c)(1)(C) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2633), not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 1370. AVAILABILITY OF NUCLEAR NON-PROLIFERATION INFORMATION TO DEPARTMENT OF DEFENSE

Section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282) is amended—

(1) by inserting "the Department of Defense," in subsection (c) after "Department of State,"; and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents, and records relating to nuclear proliferation matters.

"(2) This subsection does not apply to any intradepartmental document of the Department of State or the Department of Energy, or any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.".

SEC. 1371. NUCLEAR WINTER STUDY AND REPORT

(a) Study.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) Report.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). The report shall contain the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

100 STAT. 4005

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

(5) A plan for a five-year research program to advance understanding of nuclear winter and an estimate of the funding necessary to carry out such a research program.

(c) Evaluation of Report.—Upon submission of the report under subsection (b), the Secretary shall contract with the National Academy of Sciences to—

(1) make an independent evaluation of the material contained in the report; and

Report.

(2) not later than April 1, 1988, submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and of the House of Representatives, setting forth the results of the evaluation and any recommendations pertaining to the contents of the report, including the plan for the five-year research program.

SEC. 1372. SALE OF TWO NAVAL VESSELS

(a) Authorization of Sale to Taiwan.—The Secretary of the Navy is hereby authorized to sell two patrol gunboats of the Tacoma class to the Coordination Council for North American Affairs, representing the people on Taiwan, in accordance with section 7307(b)(1) of title 10, United States Code, and the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.).

(b) Conditions.—A sale of a vessel under subsection (a)—

(1) shall be subject to such terms and conditions as the President may require; and

(2) shall be for a price not less than the value in United States dollars of the vessel involved.

(c) Recovery of United States Expenses.—Any expense of the United States in connection with the transfer of a vessel sold under subsection (a) shall be charged to the purchaser.

(d) Expiration of Authority.—The authority of the Secretary of the Navy under subsection (a) expires at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1373. DRUG INTERDICTION

President of U.S.
Aircraft and air carriers.
Vessels.
Motor vehicles.

(a) Comprehensive Program.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will insure maximum coordination and cooperation among those agencies.

100 STAT. 4006

Law enforcement and crime.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

Coast Guard.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of Defense and civilian drug law enforcement and interdiction agencies.

10 USC 371 *et seq.*

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

President of U.S.

(b) Report —Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combatting illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

Armed Forces.
Aircraft and air carriers.
Vessels.

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

Alaska.
Hawaii.

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

100 STAT. 4007

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

Japan.
Korea.
Australia.

(9) The effect of carrying out the program referred to in paragraph (4) of the United States' ability to meet its defense responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

(c) Assistance to Agencies.—Section 374 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In the case of a request from a head of an agency specified in subsection (a), the Secretary shall provide to that agency such assistance as the Secretary considers appropriate to carry out that agency's drug interdiction and enforcement responsibilities.".

(d) Relationship to Chapter 18.—Nothing in this section shall be construed to abrogate the restrictions contained in chapter 18 of title 10, United States Code.

10 USC 371 *et seq.*

SEC. 1374. GRANTS TO THE HENRY M. JACKSON FOUNDATION

(a) In General.—The Secretary of Defense shall make grants to the Henry M. Jackson Foundation (a nonprofit corporation operating under the laws of the District of Columbia) to support the ongoing educational program of the Foundation. Purposes for which funds provided under this section may be used to include scholarships, fellowships, professorships, lectures and symposia, exchanges and other educational initiatives at national institutions of higher education.

(b) Terms and Conditions of Grants.—The purposes, terms, and conditions of grants made under this section shall be prescribed in an agreement to be entered into between the Secretary and the Foundation.

(c) Authority to Use Interest Income.—If funds made available to the Foundation under this section are invested by the Foundation (or any of its subgrantees) pending the disbursement of those funds, any interest realized from such investment shall not be required to be deposited in the Treasury if it is used for the purposes for which the funds were made available.

(d) Source of Funds.—Grants under this section shall be made from any funds available to the Department of Defense for obligation.

(e) Amount and Deadline for Making Grants.—The Secretary shall make grants under this section in the amount of $10,000,000 not later than January 1, 1987.

SEC. 1375. BUDGET ACCOUNTING FOR NEW SPACE SHUTTLE

Funds appropriated for the procurement of a shuttle orbiter by the National Aeronautics and Space Administration to replace the Challenger space shuttle orbiter may not be charged by any official of the executive or legislative branch against major budget function category 050 (National Defense).

TITLE XIV—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Barry Goldwater Scholarship and Excellence in Education Act.
20 USC 4701 note.

SEC. 1401. SHORT TITLE

This title may be cited as the "Barry Goldwater Scholarship and Excellence in Education Act".

SEC. 1402. FINDINGS

20 USC 4701.

The Congress makes the following findings:

Arizona.

(1) Senator Barry Goldwater of the State of Arizona has served his country for 56 years as a soldier and statesman, including service in the United States Senate for a period of 30 years.

100 STAT. 4008

(2) Senator Goldwater has a distinguished record as a Senator, including service as Chairman of the Select Committee on Intelligence of the Senate and as Chairman of the Committee on Armed Services of the Senate.

(3) Senator Goldwater has long maintained a special interest in the education of America's youth, particularly in the fields of science and mathematics.

(4) It would, therefore, be a fitting tribute to the leadership, courage, and vision of Senator Goldwater to establish in his name a scholarship program to foster and encourage excellence in science and mathematics.

20 USC 4702.

SEC. 1403. DEFINITIONS

In this title:

(1) The term "Foundation" means the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 1404(a).

(2) The term "Board" means the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 1404(b).

(3) The term "fund" means the Barry Goldwater Scholarship and Excellence in Education Fund provided for under section 1408.

(4) The term "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas.

(6) The term "eligible person" means a citizen or national of the United States or a permanent resident alien of the United States.

20 USC 4703.

SEC. 1404. ESTABLISHMENT OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

(a) Establishment.—There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

(b) Board of Trustees.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate.

(2) Two members from the House of Representatives, one appointed by the majority leader and one appointed by the minority leader of the House of Representatives.

(3) Eight members, not more than four of whom shall be of the same political party, to be appointed by the President, by and with the advice and consent of the Senate, at least one of whom shall be a representative of the aerospace industry and at least one of whom shall be a representative of a private foundation concerned with aerospace education.

100 STAT. 4009

(4) The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

(c) Term of Office.—(1) The term of office of each member of the Board shall be six years, except that—

(A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(2) A Member of Congress appointed to the Board under clause (2) or (3) of subsection (b) may not serve as a member of the Board for more than a total of six years.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

SEC. 1405. BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION AWARDS

20 USC 4704.

(a) AWARD OF SCHOLARSHIPS AND FELLOWSHIPS.—(1) The Foundation may award scholarships and fellowships to eligible persons for study in the fields of science and mathematics. Such scholarships and fellowships shall be awarded to persons as provided in this title who meet the minimum criteria established by the Foundation.

(2) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers in mathematics and the natural sciences.

(3) Fellowships shall be awarded to outstanding graduate students who intend to pursue advanced degrees in mathematics and the natural sciences.

Contract.

(4) The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of scholarships and fellowships awarded under this title.

(b) Recipients of scholarships and fellowships under this title shall be known as "Barry Goldwater Scholars".

Voluntarism.

(c)(1) The Foundation may award honoraria to outstanding educators, teachers, and persons who have volunteered to assist in secondary schools who have made significant contributions to improve the quality of instruction in mathematics and sciences in the secondary school. To the extent the Board determines such action practicable, honoraria awarded under this subsection shall be awarded annually to persons described in the preceding sentence as follows:

(A) To two persons selected at large from each State.

(B) To one person selected from each county in each State.

(C) To persons affiliated with secondary schools on military reservations.

(D) To persons affiliated with the dependent overseas school system.

(2) The Board shall establish a schedule of honoraria to be awarded under paragraph (1).

100 STAT. 4010

SEC. 1406. STIPENDS

20 USC 4705.

Each person awarded a scholarship or fellowship under this title shall receive a stipend which shall not exceed the cost to such person for tuition, fees, books, room and board, or such lesser amount as may be prescribed by the Board.

SEC. 1407. SCHOLARSHIP CONDITIONS

20 USC 4706.

(a) IN GENERAL.—A person awarded a scholarship under this title may receive payments authorized under this title only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(b) REPORTS.—The Foundation may require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any person awarded a scholarship under this title. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such person is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in subsection (a).

20 USC 4707.

SEC. 1408. BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FUND

(a) Establishment of Fund.—There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 1412 and amounts credited to it under subsection (d).

(b) Investment of Fund Assets.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest. 31 USC 3121.

(c) Authority To Sell Obligations.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Proceeds From Certain Transactions Credited to Fund.—100 STAT. 4011 The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

20 USC 4708.

SEC. 1409. EXPENDITURES FROM THE FUND

(a) In General.—The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this title.

(b) Audits By GAO.—The activities of the Foundation under this title may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation pertaining to such activities and necessary to facilitate the audit.

20 USC 4709.

SEC. 1410. EXECUTIVE SECRETARY

(a) Appointment By Board.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this title as the Board shall prescribe.

(b) Compensation.—The Executive Secretary of the Foundation shall be compensated at the rate specified for employees in grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 1411. ADMINISTRATIVE PROVISIONS

20 USC 4710.

(a) In General.—In order to carry out this title, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

Regulations.

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

100 STAT. 4012

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this title, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

Contracts. Grants.

(7) rent office space in the District of Columbia; and

(8) make other necessary expenditures.

District of Columbia.

(b) Annual Report.—The Foundation shall submit to the President and to Congress an annual report of its operations under this title.

SEC. 1412. AUTHORIZATION OF APPROPRIATIONS

20 USC 4711.

There is hereby authorized to be appropriated to the fund $40,000,000 to carry out this title.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military Construction Authorization Act, 1987.

SEC. 2001. SHORT TITLE; TABLE OF CONTENTS

(a) Short Title.—This division may be cited as the "Military Construction Authorization Act, 1987".

(b) Table of Contents of Division.—The table of contents of this division is as follows:

Sec. 2001. Short title; table of contents.

TITLE I—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Fort Drum, New York.
Sec. 2105. Community planning assistance.
Sec. 2106. Authorization of appropriations, Army.
Sec. 2107. Extension of certain prior year authorizations.

TITLE II—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.

Sec. 2204. Acquisition of existing housing units on Guam.
Sec. 2205. Increase in title total amount for military construction project at Kings Bay, Georgia.
Sec. 2206. Certain enlisted quarters, Guam.
Sec. 2207. Limitation on use of funds for certain homeporting.
Sec. 2208. Authorization of appropriations, Navy.
Sec. 2209. Extension of certain prior year authorizations.

TITLE III—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Restriction on certain military construction funding.
Sec. 2305. Authorization of appropriations, Air Force.
Sec. 2306. Extension of certain prior year authorizations.

TITLE IV—DEFENSE AGENCIES

Sec. 2401. Authorized construction projects and land acquisition for the defense agencies.
Sec. 2402. Family housing.
100 STAT. 4013
Sec. 2403. Brooke Army Medical Center.
Sec. 2404. Hazardous waste storage.
Sec. 2405. Authorization of appropriations, defense agencies.
Sec. 2406. Extension of prior year authorizations.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authority of the Secretary of Defense to make contributions.
Sec. 2502. Authorization of appropriations, NATO.
Sec. 2503. Amendment to NATO infrastructure program.
Sec. 2504. Restriction on certain funding.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorization for Guard and Reserve facilities.

TITLE VII—GENERAL PROVISIONS

Part A—Expiration of Authorizations and Amounts Required to be Specified by Law

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Codification of certain amounts required to be specified by law.

Part B—Military Construction Program Provisions

Sec. 2711. Test of long-term facilities contracts.
Sec. 2712. Planning and design.
Sec. 2713. Build-to-lease and rental guarantee pilot programs.
Sec. 2714. Foreign leases for personnel holding special positions.

Part C—Miscellaneous Provisions

Sec. 2721. Postal facilities.
Sec. 2722. Community planning assistance.
Sec. 2723. Release of certain use rights held by the United States.
Sec. 2724. Prohibition of funding for certain military construction contracts on Guam.
Sec. 2725. Prohibition on design of Pentagon annex.
Sec. 2726. Study of needs of dependents' educational facilities on military installations.
Sec. 2727. Study of use of property at Los Alamitos Armed Forces Reserve Center, California, for military family housing.
Sec. 2728. Real estate acquisition report.

Part D—Real Property Transactions

Sec. 2731. Land conveyance, Fort Huachuca, Arizona.
Sec. 2732. Lease and development of certain real property, San Diego, California.
Sec. 2733. Selection of site for military family housing at San Pedro, California.
Sec. 2734. Granting of easements and replacement of family housing units and other facilities at Marine Corps Air Station, El Toro, California.
Sec. 2735. Land conveyance, March Air Force Base, California.
Sec. 2736. Land exchange, Long Beach Naval Station, California.
Sec. 2737. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 2738. Authorization of land conveyance to city of Arcadia, California.
Sec. 2739. Land exchange, Orlando, Florida.
Sec. 2740. Sale of land and replacement of certain warehousing facilities, Kapalama Military Reservation, Hawaii.

Sec. 2741. Land exchange, Aiea, Hawaii.
Sec. 2742. Land exchange, Santa Fe, New Mexico.
Sec. 2743. Lease of property at the Naval Weapons Station, Charleston, South Carolina.
Sec. 2744. Property management.

TITLE I—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

Real property.

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES ARMY FORCES COMMAND

Camp Dawson, West Virginia, $8,700,000.
Fort Bragg, North Carolina, $22,250,000.
Fort Campbell, Kentucky, $4,740,000.
Fort Carson, Colorado, $11,300,000.
Fort Devens, Massachusetts, $20,800,000.
Fort Drum, New York, $615,000,000.
Fort Hood, Texas, $13,350,000.
Fort Irwin, California, $820,000.
Fort Lewis, Washington, $21,580,000.
Fort McPherson, Georgia, $2,900,000.
Fort Ord, California, $6,550,000.
Fort Polk, Louisiana, $26,000,000.
Fort Riley, Kansas, $8,250,000.
Fort Sam Houston, Texas, $800,000.
Fort Sheridan, Illinois, $2,050,000.
Fort Stewart, Georgia, $1,550,000.
Fort Wainwright, Alaska, $72,300,000.

UNITED STATES ARMY WESTERN COMMAND

Wheeler Army Air Field, Hawaii, $2,900,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Carlisle Barracks, Pennsylvania, $800,000.
Fort Benning, Georgia, $12,180,000.
Fort Eustis, Virginia, $2,050,000.
Fort Jackson, South Carolina, $10,400,000.
Fort Leavenworth, Kansas, $1,100,000.
Fort Lee, Virginia, $17,600,000.
Fort Leonard Wood, Missouri, $42,200,000.
Fort McClellan, Alabama, $540,000.
Fort Rucker, Alabama, $44,500,000.
Fort Story, Virginia, $2,700,000.

UNITED STATES ARMY MATERIEL COMMAND

Aberdeen Proving Ground, Maryland, $40,750,000.
Badger Army Ammunition Plant, Wisconsin, $980,000.
Corpus Christi Army Depot, Texas, $10,650,000.
Detroit Arsenal, Michigan, $1,350,000.
Dugway Proving Ground, Utah, $9,700,000.
Fort Monmouth, New Jersey, $4,900,000.
Harry Diamond Laboratory, Maryland, $680,000.
Savanna Army Depot, Illinois, $320,000.
Yuma Proving Ground, Arizona, $820,000.

100 STAT. 4015

UNITED STATES ARMY INFORMATION SYSTEMS COMMAND

Fort Huachuca, Arizona, $17,200,000.

UNITED STATES MILITARY ACADEMY

U.S. Military Academy, New York, $24,500,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Sunny Point Military Ocean Terminal, North Carolina, $650,000.

ASSISTANT CHIEF OF ENGINEERS

Classified, United States, $7,100,000.

(b) Outside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

UNITED STATES ARMY, JAPAN

Kawakami, Japan, $1,200,000.

EIGHTH UNITED STATES ARMY

Camp Carroll, Korea, $1,740,000.
Camp Casey, Korea, $24,940,000.
Camp Castle, Korea, $4,800,000.
Camp Essayons, Korea, $3,000,000.
Camp Greaves, Korea, $3,650,000.
Camp Hovey, Korea, $9,000,000.
Camp Howze, Korea, $5,850,000.
Camp Humphreys, Korea, $16,100,000.
Camp Jackson, Korea, $1,800,000.
Camp Laguardia, Korea, $2,970,000.
Camp Libby, Korea, $1,100,000.
Camp Liberty Bell, Korea, $780,000.
Camp Long, Korea, $5,600,000.
Camp Market, Korea, $540,000.
Camp Nimble, Korea, $1,950,000.
Camp Page, Korea, $1,400,000.
Camp Pelham, Korea, $2,280,000.
Camp Red Cloud, Korea, $4,550,000.
Camp Stanley, Korea, $4,700,000.
H220, Korea, $2,750,000.
K-16 Army Airfield, Korea, $2,520,000.
Pusan, Korea, $12,940,000.
Second Infantry, Korea, $5,150,000.
Taegu, Korea, $4,900,000.
Yongsan, Korea, $8,760,000.

UNITED STATES ARMY STRATEGIC DEFENSE COMMAND

Kwajalein, $20,600,000.

UNITED STATES ARMY FORCES COMMAND, OVERSEAS

Classified, $4,000,000.
Palmerola Air Base, Honduras, $4,300,000.

100 STAT. 4016

UNITED STATES ARMY EUROPE AND SEVENTH ARMY

Ansbach, Germany, $1,790,000.
Aschaffenburg, Germany, $7,000,000.
Bad Kreuznach, Germany, $900,000.
Baumholder, Germany, $18,450,000.
Bitburg, Germany, $19,920,000.
Fulda, Germany, $1,000,000.
Giessen, Germany, $6,570,000.

Goeppingen, Germany, $1,850,000.
Hanau, Germany, $26,150,000.
Heidelberg, Germany, $1,600,000.
Heilbronn, Germany, $2,100,000.
Hohenfels, Germany, $8,800,000.
Kaiserslautern, Germany, $1,400,000.
Karlsruhe, Germany, $10,000,000.
Mannheim, Germany, $2,450,000.
Neu Ulm, Germany, $26,050,000.
Nuernberg, Germany, $5,500,000.
Rheinberg, Germany, $17,150,000.
Schweinfurt, Germany, $23,000,000.
Stuttgart, Germany, $820,000.
Various, Germany, $6,350,000.
Vilseck, Germany, $49,570,000.
Wuerzburg, Germany, $1,000,000.
Katsimidhi Site, Greece, $560,000.
Zelo, Italy, $610,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND, OVERSEAS

Location 177, $1,950,000.
Location 276, $3,700,000.
Location 280, $2,100,000.

SEC. 2102. FAMILY HOUSING

The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Irwin, California, thirty-eight manufactured home spaces, $730,000.

Fort Ord, California, three hundred and eighty-five units, $34,000,000.

Crailsheim, Germany, forty units, $4,100,000.

Darmstadt, Germany, forty units, $3,150,000.

Erlangen, Germany, one hundred and six units, $9,400,000.

Herzo Base, Germany, thirty-four units, $3,300,000.

Schweinfurt, Germany, ninety units, $8,400,000.

Vilseck, Germany, two hundred and twenty-four units, $21,000,000.

Wildflecken, Germany, twenty-four units, $2,050,000.

Various Locations, Germany, one hundred and twenty units, funded in the manner authorized in section 2103(a).

Fort Polk, Louisiana, five hundred and eighty-three units, $37,000,000. 100 STAT. 4017

Kwajalein, Marshall Islands, one hundred and thirty-six units, $23,000,000.

Aberdeen Proving Ground, Maryland, one hundred and forty units and seventy manufactured home spaces, $10,800,000.

Fort Drum, New York, one thousand and two hundred units, $91,000,000.

Seneca Army Depot, New York, thirty units, $2,900,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) Amount Authorized.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures, using amounts appropriated pursuant to section 2106(a)(7)(A), to improve existing military family housing units in an amount not to exceed $79,500,000, of which not more than $11,900,000 may be used to convert portions of existing facilities at various locations in Germany to military family housing units, and may make additional expenditures not to exceed $15,671,000 for energy conservation projects using amounts appropriated pursuant to section 2106(b).

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Aschaffenburg, Germany, one hundred and forty-four units, $5,120,000.

Aschaffenburg, Germany, forty-eight units, $2,800,000.

Bremerhaven, Germany, twenty-four units, $1,400,000.

Karlsruhe, Germany, twenty-four units, $1,400,000.

Kitzingen, Germany, one hundred and two units, $5,950,000.

Mainz, Germany, one unit, $69,000.

Worms, Germany, six units, $350,000.

Fort Benjamin Harrison, Indiana, one hundred and sixty-six units, $6,000,000.

Pusan, Korea, forty-eight units, $2,237,000.

Yongsan, Korea, one unit, $70,000.

Fort Indiantown Gap, Pennsylvania, six units, $166,000.

Fort Sam Houston, Texas, twenty-three units, $930,000.

Fort Myer, Virginia, three units, $140,000.

(c) Waiver of Space Limitation for General Officer's Quarters At Yongsan, Korea.—(1) Notwithstanding the maximum space limitations under section 2826(a) of title 10, United States Code, the Secretary of the Army may carry out an improvement project to increase the net floor area of the housing unit for one general officer at the United States Army Garrison, Yongsan, Korea, to not more than 3,574 square feet.

(2) For purposes of this subsection, the term "net floor area" has the same meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2104. FORT DRUM, NEW YORK

Contracts.

(a) Authorization.—The Secretary of the Army may, in advance of the availability of appropriations authorized to be appropriated by section 2106(c), enter into one or more contracts for the military construction projects authorized by section 2101 at Fort Drum, New York, if each such contract limits the amount of payments that the Federal government is obligated to make under such contract to the amount of appropriations available, at the time the contract is entered into, for obligation under such a contract. Such construction may be accomplished by using one-step turn-key selection procedures or other competitive contracting methods.

100 STAT. 4018

99 Stat. 965.

(b) Family Housing.—(1) Of the family housing units authorized by section 102 of the Military Construction Authorization Act, 1986, to be constructed at Fort Drum, New York—

(A) three of those units shall be constructed for assignment to general officers, and notwithstanding section 2826 of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 3,000 square feet; and

(B) seven of those units shall be constructed for assignment to colonels who hold positions as commanders, and notwithstanding section 2826 of title 10, United States Code, each such unit may be constructed with a maximum net floor area of 2,100 square feet.

(2) For purposes of this subsection, the term "net floor area" has the meaning given that term by section 2826(f) of title 10, United States Code.

SEC. 2105. COMMUNITY PLANNING ASSISTANCE

The Secretary of the Army may use not more than $400,000 from funds appropriated to the Department of the Army for fiscal year 1987 for planning and design purposes to provide planning assistance to local communities located near the newly established light infantry divisions at Fort Drum, New York, and Fort Wainwright, Alaska, if the Secretary determines that the financial resources available to the communities (by grant or otherwise) are inadequate.

SEC. 2106. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,870,396,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $660,510,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $402,210,000.

(3) For the construction of the Eastern Distribution Center, New Cumberland Army Depot, Pennsylvania, as authorized by section 101 of the Military Construction Authorization Act, 1986, $43,000,000. 99 Stat. 961.

(4) For Pershing II security upgrade at various locations, Germany, as authorized by section 101 of the Military Construction Authorization Act, 1986, $7,000,000.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $20,000,000.

(6) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $130,580,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $354,330,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,247,266,000 of which—

(i) not more than $31,246,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $142,639,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,500,000.

(b) Authorization of Unobligated Funds.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 which could be used for energy conservation projects for existing military family housing units of the Department of the Army that remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for energy conservation projects for military family housing of the Army in an amount not to exceed $15,671,000.

(c) Advance Authorization of Appropriations for Fort Drum, New York.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for the military construction projects and land acquisition authorized at Fort Drum, New York, by sections 2101(a) and 2104 as follows:

(1) $221,000,000 in fiscal year 1988.

(2) $214,000,000 in fiscal year 1989.

(d) Limitation on Total Cost of Construction Projects Authorized in This Title.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2101 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and under subsection (c).

SEC. 2107. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 101 of that Act, as extended by section 606(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 983) shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Unaccompanied personnel housing in the amount of $1,400,000 at Argyroupolis, Greece.

(2) Operations building in the amount of $370,000 at Argyroupolis, Greece.

(3) Multipurpose recreation facility in the amount of $480,000 at Argyroupolis, Greece.

(4) Unaccompanied officer housing in the amount of $600,000 at Perivolaki, Greece.

(5) Operations building in the amount of $410,000 at Perivolaki, Greece.

100 STAT. 4020

(6) Multipurpose recreation facility in the amount of $620,000 at Perivolaki, Greece.

(7) Physical fitness training center in the amount of $1,000,000 at Elefsis, Greece.

(b) Extension of Authorization of Certain Fiscal Year 1985 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

98 Stat. 1495.

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Child care center in the amount of $1,980,000 at Presidio of San Francisco, California.

(3) Barracks in the amount of $6,600,000 at Presidio of San Francisco, California.

(4) Multipurpose recreation facility in the amount of $1,150,000 at Koropi, Greece.

(5) Multipurpose recreation facility in the amount of $960,000 at Katsimidi, Greece.

(6) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(7) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(8) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(9) Dining facility modernization in the amount of $860,000, adjusted to $1,340,000 by cost variation approval, at Fort Jackson, South Carolina.

TITLE II—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

UNITED STATES MARINE CORPS

Headquarters Marine Corps, Arlington, Virginia, $3,020,000.
Marine Corps Air Station, Beaufort, South Carolina, $4,990,000.
Camp H. M. Smith, Oahu, Hawaii, $2,070,000

Marine Corps Base, Camp Lejeune, North Carolina, $31,310,000
Marine Corps Air Station, Camp Pendleton, California, $10,410,000.
Marine Corps Base, Camp Pendleton, California, $28,990,000.
Marine Corps Air Station, Cherry Point, North Carolina, $13,450,000.
Marine Corps Air Station, El Toro, California, $27,850,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $30,700,000.
Marine Corps Air Station, New River, North Carolina, $21,710,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $7,250,000. 100 STAT. 4021
Marine Corps Air Station, Tustin, California, $14,910,000.
Marine Corps Air-Ground Combat Center, Twentynine Palms, California, $32,630,000.
Marine Corps Air Station, Yuma, Arizona, $8,860,000.

SPACE AND NAVAL WARFARE SYSTEMS COMMAND

Naval Electronic Systems Engineering Center, Portsmouth, Virginia, $1,870,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $2,660,000.
Navy Tactical Interoperability Support Activity, Long Beach, California, $510,000.
Naval Legal Service Office, Norfolk, Virginia, $1,080,000.
Naval Legal Service Office Detachment, Oceana, Virginia, $540,000.
Commandant Naval District, Washington, District of Columbia, $2,000,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $1,160,000.
Naval Air Station, Cecil Field, Florida, $8,640,000.
Naval Station, Charleston, South Carolina, $1,400,000.
Naval Ocean Processing Facility, Dam Neck, Virginia, $540,000.
Naval Air Station, Jacksonville, Florida, $4,810,000.
Naval Air Station, Key West, Florida, $1,650,000.
Naval Amphibious Base, Little Creek, Virginia, $6,970,000.
Naval Station, Mayport, Florida, $880,000.
Naval Supply Center Detachment, Mayport, Florida, $3,730,000.
Naval Submarine Base, New London, Connecticut, $4,630,000.
Naval Station, New York, New York, $52,950,000.
Fleet Intelligence Center Europe and Atlantic, Norfolk, Virginia, $1,880,000.
Naval Air Station, Norfolk, Virginia, $1,570,000.

COMMANDER IN CHIEF, PACIFIC FLEET

Naval Air Station, Adak, Alaska, $24,900,000.
Naval Facility, Adak, Alaska, $5,700,000.
Naval Air Station, Alameda, California, $18,625,000.
Naval Submarine Base, Bangor, Washington, $7,180,000.
Trident Refit Facility, Bangor, Washington, $1,570,000.
Naval Facility, Centerville Beach, California, $1,370,000.
Naval Amphibious Base, Coronado, California, $17,450,000.
Naval Station, Everett, Washington, $43,580,000.
Naval Air Station, Fallon, Nevada, $31,200,000.
Naval Air Station, Lemoore, California, $980,000.
Naval Station, Long Beach, California, $7,260,000.
Naval Magazine, Lualualei, Hawaii, $4,350,000.
Naval Air Station, Miramar, California, $40,400,000.
Naval Station, Pearl Harbor, Hawaii, $3,240,000.
Naval Submarine Base, Pearl Harbor, Hawaii, $690,000.

Naval Station, San Diego, California, $19,460,000.
Naval Submarine Base, San Diego, California, $9,400,000.
Naval Station, Seattle, Washington, $2,950,000.
Naval Air Station, Whidbey Island, Washington, $5,180,000.

100 STAT. 4022

CHIEF OF NAVAL EDUCATION AND TRAINING

Naval Air Station, Corpus Christi, Texas, $690,000.
Naval Guided Missile School, Dam Neck, Virginia, $3,140,000.
Naval Training Center, Great Lakes, Illinois, $5,300,000.
Naval Construction Training Center, Gulfport, Mississippi, $1,180,000.
Naval Air Station, Kingsville, Texas, $3,780,000.
Combat Systems Technical Schools Command, Mare Island, California, $5,200,000.
Naval Air Station, Memphis, Tennessee, $15,810,000.
Naval Air Station, Meridian, Mississippi, $4,410,000.
Naval Submarine School, New London, Connecticut, $9,540,000
Naval Education and Training Center, Newport, Rhode Island, $11,700,000.
Surface Warfare Officers School Command, Newport, Rhode Island, $8,840,000.
Fleet Training Center, Norfolk, Virginia, $5,400,000.
Naval Training Center, Orlando, Florida, $9,670,000.
Naval Diving and Salvage Training Center, Panama City, Florida, $2,850,000.
Naval Technical Training Center, Pensacola, Florida, $7,360,000.
Fleet Intelligence Training Center, Pacific, San Diego, California, $4,220,000.
Fleet Training Center, San Diego, California, $3,930,000.
Naval Training Center, San Diego, California, $18,170,000.

NAVAL MEDICAL COMMAND

Naval Hospital, Camp Lejeune, North Carolina, $1,670,000.
Naval Hospital, Pensacola, Florida, $690,000.

NAVAL OCEANOGRAPHY COMMAND

Naval Observatory, Washington, District of Columbia, $980,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Adak, Alaska, $14,600,000.

NAVAL SUPPLY SYSTEMS COMMAND

Naval Supply Center, Bremerton, Washington, $500,000.
Naval Supply Center, Jacksonville, Florida, $830,000.
Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, $1,670,000.
Naval Supply Center, Norfolk, Virginia, $3,140,000.
Naval Supply Center, Oakland, California, $3,490,000.
Naval Supply Center, San Diego, California, $1,370,000.

NAVAL AIR SYSTEMS COMMAND

Pacific Missile Range Facility, Barking Sands, Kauai, Hawaii, $8,260,000.
Naval Air Rework Facility, Cherry Point, North Carolina, $37,200,000.
Naval Air Test Center, Patuxent River, Maryland, $21,140,000
Naval Air Rework Facility, Pensacola, Florida, $8,050,000.
Pacific Missile Test Center, Point Mugu, California, $590,000.

100 STAT. 4023

NAVAL FACILITIES ENGINEERING COMMAND

Naval Construction Battalion Center, Gulfport, Mississippi, $17,650,000.

Navy Public Works Center, Norfolk, Virginia, $8,740,000.

Navy Public Works Center, Pearl Harbor, Hawaii, $7,490,000.

Navy Public Works Center, Pensacola, Florida, $2,120,000.

Naval Construction Battalion Center, Port Hueneme, California, $3,980,000.

Navy Public Works Center, San Francisco, California, $450,000.

NAVAL SEA SYSTEMS COMMAND

Charleston Naval Shipyard, Charleston, South Carolina, $10,810,000.

Naval Weapons Station, Charleston, South Carolina, $22,630,000.

Naval Weapons Station, Concord, California, $790,000.

Naval Weapons Support Center, Crane, Indiana, $6,880,000.

Naval Weapons Station, Earle, New Jersey, $34,760,000.

Naval Ordnance Station, Indian Head, Maryland, $500,000.

Long Beach Naval Shipyard, Long Beach, California, $3,630,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $5,900,000.

Naval Sea Combat Systems Engineering Station, Norfolk, Virginia, $980,000.

Supervisor of Shipbuilding, Pascagoula, Mississippi, $4,120,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, $400,000.

Portsmouth Naval Shipyard, Kittery, Maine, $23,170,000.

Naval Weapons Station, Yorktown, Virginia, $4,220,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Weapons Center, China Lake, California, $1,370,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $15,960,000.

Naval Coastal Systems Center, Panama City, Florida, $880,000.

Naval Research Laboratory Annex, Quantico, Virginia, $1,500,000.

STRATEGIC SYSTEMS PROJECT OFFICE

Naval Submarine Base, Kings Bay, Georgia, $122,390,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

MARINE CORPS

Marine Corps Air Station, Futenma, Okinawa, Japan, $4,270,000.

Marine Corps Base, Camp Smedley D. Butler, Okinawa, Japan, $8,950,000.

COMMANDER IN CHIEF, ATLANTIC FLEET

Naval Station, Guantanamo Bay, Cuba, $2,600,000.

Naval Air Station, Keflavik, Iceland, $13,840,000.

Naval Facility, Keflavik, Iceland, $1,570,000.

Atlantic Fleet Weapons Training Facility, Roosevelt Roads, Puerto Rico, $4,220,000.

Naval Station, Roosevelt Roads, Puerto Rico, $7,080,000.

100 STAT. 4024

COMMANDER IN CHIEF, PACIFIC FLEET

Administrative Support Unit, Bahrain Island, $2,550,000.

Mobile Construction Battalion, Camp Covington, Guam, $15,500,000.

Naval Facility, Guam, $820,000.

Naval Supply Depot, Guam, $400,000.

Naval Station, Subic Bay, Republic of the Philippines, $1,710,000.

Naval Supply Depot, Subic Bay, Republic of the Philippines, $290,000.

Naval Ship Repair Facility, Subic Bay, Republic of the Philippines, $1,770,000.

COMMANDER IN CHIEF, UNITED STATES NAVAL FORCES EUROPE

Naval Activities, London, United Kingdom, $1,180,000

Naval Support Activity, Naples, Italy, $1,570,000.

Naval Station, Rota, Spain, $4,600,000.

Classified Locations, $15,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station, Western Pacific, Guam, $480,000.

Naval Communications Station, Harold E. Holt, Exmouth, Australia, $2,180,000.

Naval Communications Area Master Station, Mediterranean, Naples, Italy, $8,250,000.

Naval Communication Station, San Miguel, Republic of the Philippines, $470,000.

Naval Communication Station, Thurso, United Kingdom, $350,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $2,250,000.

Naval Security Group Detachment, Guam, $2,150,000.

Naval Security Group Activity, Sabana Seca, Puerto Rico, $790,000.

NAVAL FACILITIES ENGINEERING COMMAND

Navy Public Works Center, Guam, $1,570,000.

OFFICE OF THE CHIEF OF NAVAL RESEARCH

Naval Underwater Systems Center, Andros Island, Bahamas, $3,730,000.

SEC. 2202. FAMILY HOUSING

The Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Long Beach, California, three hundred units, $22,900,000.

Naval Air Station, Moffett Field, California, one hundred and twenty-six units, $11,600,000.

Navy Public Works Center, San Francisco, California, three hundred units, $26,450,000.

100 STAT. 4025

Marine Corps Air Station, El Toro, California, $2,300,000, as authorized in section 2734.

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, three hundred and ninety-two units and seventy-five mobile home spaces, $35,300,000.

Marine Corps Base, Camp Pendleton, California, one hundred mobile home spaces, $1,800,000.

Marine Corps Base, Camp Lejeune, North Carolina, seventy-five mobile home spaces, $930,000.

Marine Corps Development and Education Command, Quantico, Virginia, fifty mobile home spaces, $790,000.

Naval Station, Keflavik, Iceland, two hundred and fifty units, $48,642,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) AMOUNT AUTHORIZED.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures, using amounts appropriated pursuant to section 2208(a)(7)(A), to improve existing military family housing units in an amount not to exceed $26,580,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Station, Mare Island, Vallejo, California, one hundred units, $5,200,000.

Marine Corps Logistics Base, Albany, Georgia, one unit, $33,300.

Navy Public Works Center, Great Lakes, Illinois, two hundred and ten units, $9,400,000.

Naval Air Station, Brunswick, Maine, forty-four units, $1,274,600.

Naval Construction Battalion Center, Gulfport, Mississippi, one unit, $28,700.

Naval Air Station, Fallon, Nevada, forty-four units, $1,868,500.

Naval Station, New York, New York, one hundred and twenty units, $9,600,000.

Naval Air Development Center, Warminster, Pennsylvania, six units, $256,800.

Naval Education and Training Center, Newport, Rhode Island, one hundred and eighty-six units, $10,200,000.

Navy Public Works Center, Guam, one unit, $64,700.

Navy Public Works Center, Guam, one hundred and nine units, $10,360,000.

Naval Air Station, Agana, Guam, one hundred units, $9,517,000.

Naval Air Station, Agana, Guam, one unit, $58,600.

SEC. 2204. ACQUISITION OF EXISTING HOUSING UNITS ON GUAM

The Secretary of the Navy may acquire, without reimbursement, 89 existing family housing units constructed and used by the Federal Aviation Administration on land in Finegayan, Guam, held by the Secretary of the Navy under the provisions of section 1158 of title 49, United States Code. 100 STAT. 4026

SEC. 2205. INCREASE IN TITLE TOTAL AMOUNT FOR MILITARY CONSTRUCTION PROJECT AT KINGS BAY, GEORGIA

Section 602(c) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 981), is amended by striking "may not exceed the total amount authorized" and all that follows and inserting the following:
"may not exceed—

"(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

"(2) the amount specified in subsection (b); and

"(3) $85,600,000 (the balance of the amount authorized under section 201(a) for military construction projects at Kings Bay, Georgia).".

SEC. 2206. CERTAIN ENLISTED QUARTERS, GUAM

Section 201(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 970), is amended—

(1) by striking out "Naval Magazine, Guam, $11,270,000." and inserting in lieu thereof "Naval Magazine, Guam, $6,570,000."; and

(2) by striking out "Naval Station, Guam, $10,200,000." and inserting in lieu thereof "Naval Station, Guam, $14,900,000.".

SEC. 2207. LIMITATION ON USE OF FUNDS FOR CERTAIN HOMEPORTING

(a) IN GENERAL.—Funds appropriated pursuant to an authorization in section 2208 for Naval Station, Everett, Washington, may not be obligated or expended for such purpose until—

(1) all Federal, State, and local permits required for the dredging activities to be carried out with respect to homeporting at Everett, Washington, have been issued; and

(2) the State of Washington has appropriated, in fiscal year 1987, its share of funds for fiscal years 1988 and 1989 for all projects agreed with by the Department of the Navy for homeporting at Everett, Washington.

(b) LIMITATION ON AMOUNT OF FUNDS THAT MAY BE EXPENDED THROUGH FISCAL YEAR 1991.—Not more than a total of $272,000,000, including $16,000,000 for defense access roads, may be obligated or expended by the Department of Defense and the Department of the Navy during fiscal years 1986 through 1991 for construction associated with strategic homeporting at Everett, Washington.

SEC. 2208. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,147,438,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,109,795,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $110,840,000.

(3) For military construction projects at Kings Bay, Georgia, authorized by section 201(a) of the Military Construction Authorization Act, 1986, $45,450,000. 99 Stat. 966.

100 STAT. 4027

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $143,770,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $5,400,000.

(7) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $159,292,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $557,891,000, of which—

(i) not more than $5,214,100 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $17,244,900 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and $20,000,000 (the balance of the amount authorized under section 2202(a) for the construction of an ammunition pier and trestle at the Naval Weapons Station, Earle, New Jersey).

SEC. 2209. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) Extension of Authorization of Certain Fiscal Year 1984 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1984 (Public Law 98-115, 97 Stat. 780), authorizations for the following projects authorized in section 201 of that Act, as extended by section 606(b) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 983) shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later:

(1) Land acquisition in the amount of $830,000 at the Naval Weapons Station, Concord, California.

(2) Unaccompanied enlisted personnel housing in the amount of $10,000,000 at the Naval Air Station, Jacksonville, Florida.

(3) Electrical distribution lines in the amount of $7,200,000 at the Mare Island Naval Shipyard, Vallejo, California.

(b) Extension of Authorization of Certain Fiscal Year 1985 Projects.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in sections 201 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later: 98 Stat. 1499.

(1) Unaccompanied enlisted personnel housing in the amount of $10,740,000 at the Marine Corps Air Station, Yuma, Arizona. 100 STAT. 4028

(2) Antenna support facility in the amount of $320,000 at the Naval Security Group Activity, Adak, Alaska.

(3) Data processing center in the amount of $6,160,000 at the Naval Supply Center, Bremerton, Washington.

(4) Unaccompanied enlisted personnel housing in the amount of $12,130,000 at the Naval Air Station, Whidbey Island, Washington.

(5) Unaccompanied enlisted personnel housing in the amount of $6,600,000 at the Naval Station, Mare Island, Vallejo, California.

(6) Engine test cell in the amount of $9,700,000 for the Naval Air Rework Facility, Cherry Point, North Carolina.

(7) Security building in the amount of $850,000 for the Naval Station, Norfolk, Virginia.

(8) Unaccompanied enlisted personnel housing in the amount of $1,580,000 for the Naval Station, Panama Canal, Panama.

(9) Heating, ventilation and air conditioning in the amount of $4,540,000 for the Naval Air Station, Alameda, California.

(10) Land acquisition in the amount of $4,750,000 for the Marine Corps Air Station, El Toro, California.

(11) Maintenance hangar in the amount of $5,000,000 for the Naval Air Station, Fallon, Nevada.

(12) Construction battalion unit complex in the amount of $1,090,000 for the Naval Station, Mare Island, Vallejo, California.

(13) Airframes shop in the amount of $1,680,000 for the Pacific Missile Test Center, Point Mugu, California.

(14) Unaccompanied enlisted personnel housing in the amount of $6,650,000 for the Pacific Missile Test Center, Point Mugu, California.

(15) Maintenance hangar in the amount of $13,200,000 for the Marine Corps Air Station, Tustin, California.

(16) Oil spill prevention facility in the amount of $710,000 for the Marine Corps Air Station, Tustin, California.

(17) Energy monitoring and control system in the amount of $1,100,000 for the Naval Air Station, Chase Field, Texas.

(18) Host nation infrastructure support in the amount of $2,970,000 for various locations.

TITLE III—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amount shown for each of the following installations and locations inside the United States:

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $20,550,000.
McClellan Air Force Base, California, $28,900,000.
Newark Air Force Station, Ohio, $3,000,000.
Robins Air Force Base, Georgia, $16,055,000.
Tinker Air Force Base, Oklahoma, $32,900,000.
Wright-Patterson Air Force Base. Ohio, $16,200,000.

100 STAT. 4029

AIR FORCE SYSTEMS COMMAND

Arnold Air Force Station, Tennessee, $3,530,000.
Edwards Air Force Base, California, $10,900,000
Eglin Air Force Base, Florida, $720,000.
Hanscom Air Force Base, Massachusetts, $4,000,000
Patrick Air Force Base, Florida, $2,600,000
Sunnyvale Air Force Station, California, $2,600,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $11,300,000
Keesler Air Force Base, Mississippi, $1,970,000.
Lackland Air Force Base, Texas, $16,000,000.
Laughlin Air Force Base, Texas, $3,700,000.
Mather Air Force Base, California, $740,000.
Williams Air Force Base, Arizona, $4,900,000

AIR UNIVERSITY

Gunter Air Force Station, Alabama, $2,900,000.
Maxwell Air Force Base, Alabama, $5,310,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $12,590,000.
Elmendorf Air Force Base, Alaska, $3,170,000.
Galena Airport, Alaska, $11,600,000.
King Salmon Airport, Alaska, $4,050,000.
Shemya Air Force Base, Alaska, $22,300,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $310,000.
Andrews Air Force Base, Maryland, $25,430,000.
Charleston Air Force Base, South Carolina, $7,490,000
Kirtland Air Force Base, New Mexico, $11,800,000.
Little Rock Air Force Base, Arkansas, $2,750,000.
McChord Air Force Base, Washington, $6,400,000.
McGuire Air Force Base, New Jersey, $7,895,000.
Norton Air Force Base, California, $1,450,000.
Pope Air Force Base, North Carolina, $3,400,000.
Scott Air Force Base, Illinois, $1,100,000.
Travis Air Force Base, California, $8,200,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, $4,700,000.

SPACE COMMAND

Cape Cod Air Force Station, Massachusetts, $4,300,000.
Cavalier Air Force Station, North Dakota, $2,820,000.
Falcon Air Force Station, Colorado, $6,400,000.
Peterson Air Force Base, Colorado, $3,640,000.

SPECIAL PROJECT

Various Locations, $37,056,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $9,516,000.
Blytheville Air Force Base, Arkansas, $3,870,000.
Carswell Air Force Base, Texas, $490,000.
Castle Air Force Base, California, $2,630,000.
Dyess Air Force Base, Texas, $4,130,000.
Ellsworth Air Force Base, South Dakota, $10,910,000.
Fairchild Air Force Base, Washington, $7,520,000.
F.E. Warren Air Force Base, Wyoming, $3,550,000.
Grand Forks Air Force Base, North Dakota, $20,730,000.
Griffiss Air Force Base, New York, $1,590,000.
Grissom Air Force Base, Indiana, $3,850,000.
Holbrook Radar Bomb Score Site, Arizona, $630,000.
K.I. Sawyer Air Force Base, Michigan, $1,730,000.
La Junta Radar Bomb Scoring Site, Colorado, $5,460,000.
Loring Air Force Base, Maine, $1,300,000.
Malmstrom Air Force Base, Montana, $30,770,000.
March Air Force Base, California, $14,440,000.
McConnell Air Force Base, Kansas, $33,740,000.
Minot Air Force Base, North Dakota, $30,100,000.
Offutt Air Force Base, Nebraska, $24,970,000.
Pease Air Force Base, New Hampshire, $2,200,000.
Plattsburgh Air Force Base, New York, $3,410,000.
Vandenberg Air Force Base, California, $2,700,000.
Whiteman Air Force Base, Missouri, $10,700,000.
Wurtsmith Air Force Base, Michigan, $10,740,000.

TACTICAL AIR COMMAND

Avon Park Auxiliary Air Field, Florida, $4,100,000.
Base 39, Classified Location, $2,300,000.
Bergstrom Air Force Base, Texas, $1,860,000.
Cannon Air Force Base, New Mexico, $7,250,000.
Davis-Monthan Air Force Base, Arizona, $13,230,000.
George Air Force Base, California, $9,550,000.
Holloman Air Force Base, New Mexico, $14,760,000.
Homestead Air Force Base, Florida, $6,550,000.
Indian Springs Auxiliary Air Field, Nevada, $1,700,000.
Langley Air Force Base, Virginia, $9,640,000.
Luke Air Force Base, Arizona, $24,140,000.
MacDill Air Force Base, Florida, $2,380,000.
Moody Air Force Base, Georgia, $900,000.
Mountain Home Air Force Base, Idaho, $14,760,000.
Myrtle Beach Air Force Base, South Carolina, $3,000,000.
Nellis Air Force Base, Nevada, $16,100,000.
Seymour-Johnson Air Force Base, North Carolina, $660,000.
Shaw Air Force Base, South Carolina, $3,700,000.
Tyndall Air Force Base, Florida, $15,310,000.
WESTCONUS, Various Locations, $10,300,000.

UNITED STATES AIR FORCE ACADEMY

Air Force Academy, Colorado, $12,620,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

100 STAT. 4031

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $7,450,000.
Rhein-Main Air Base, Germany, $1,300,000.

PACIFIC AIR FORCES

Kadena Air Base, Japan, $7,365,000.
Misawa Air Base, Japan, $10,300,000.
Totsuka Air Base, Japan, $700,000.
Yokosuka Air Base, Japan, $600,000.
Camp Red Cloud, Korea, $1,450,000.
Kimhae Air Base, Korea, $3,620,000.
Kunsan Air Base, Korea, $8,170,000.
Kwang-Ju Air Base, Korea, $600,000.
Osan Air Base, Korea, $11,350,000.
Suwon Air Base, Korea, $3,850,000.
Taegu Air Base, Korea, $5,170,000.
Clark Air Base, Republic of the Philippines, $41,100,000.
Saipan, $5,200,000.

SPACE COMMAND

Sondrestrom Air Base, Greenland, $5,860,000.
Thule Air Base, Greenland, $9,790,000.
Woomera Air Station, Australia, $2,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $7,600,000.

TACTICAL AIR COMMAND

Keflavik Naval Air Station, Iceland, $1,600,000.
Masirah, Oman, $3,500,000.
Thumrait, Oman, $3,400,000.

UNITED STATES AIR FORCES IN EUROPE

Florennes Air Base, Belgium, $1,200,000.
Bitburg Air Base, Germany, $5,350,000.
Hahn Air Base, Germany, $10,740,000.
Lindsey Air Station, Germany, $1,200,000.
Ramstein Air Base, Germany, $23,070,000.
Sembach Air Base, Germany, $11,870,000.
Spangdahlem Air Base, Germany, $8,310,000.
Wueschheim Air Station, Germany, $310,000.
Zweibrucken Air Base, Germany, $6,740,000.
Iraklion Air Station, Greece, $320,000.
Camp Darby, Italy, $270,000.
Comiso Air Station, Italy, $3,000,000.
San Vito Air Station, Italy, $3,790,000.
Morocco, $25,400,000.
Camp New Amsterdam, The Netherlands, $1,500,000.
Woensdrecht Air Base, The Netherlands, $30,780,000.
Ankara Air Station, Turkey, $5,230,000.
Incirlik Air Base, Turkey, $12,250,000.
Pirinclik Air Station, Turkey, $3,000,000.
100 STAT. 4032 Martlesham Heath, United Kingdom, $1,650,000.
RAF Alconbury, United Kingdom, $13,770,000.
RAF Bentwaters, United Kingdom, $3,850,000.
RAF Chicksands, United Kingdom, $950,000.
RAF Croughton, United Kingdom, $630,000.
RAF Fairford, United Kingdom, $4,450,000.
RAF Lakenheath, United Kingdom, $500,000.
RAF Mildenhall, United Kingdom, $4,700,000.
RAF Molesworth, United Kingdom, $2,430,000.
RAF Upper Heyford, United Kingdom, $5,700,000.

RAF Welford, United Kingdom, $1,590,000.
RAF Wethersfield, United Kingdom, $650,000.
Base 30, Classified Location, $2,950,000.
Overseas Classified Location, $11,500,000.
Various Locations, Europe, $3,953,000.

SEC. 2302. FAMILY HOUSING

The Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the following installations, in the number of units shown, and in the amount shown, for each installation:

Bitburg Air Base, Germany, three hundred and thirty-two units, $26,415,000.

Hahn Air Base, Germany, one hundred and fifty units, $11,300,000.

La Junta Air Force Station, Colorado, forty units, $4,000,000.

Beale Air Force Base, California, family housing maintenance shop, $180,000.

Davis-Monthan Air Force Base, Arizona, family housing management office, $300,000.

McGuire Air Force Base, New Jersey, family housing management office, $325,000.

Pope Air Force Base, North Carolina, family housing management office, $300,000.

Edwards Air Force Base, California, twenty-four mobile home spaces, $376,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) Amount Authorized.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures, using amounts appropriated pursuant to section 2305(a)(6)(A), to improve existing military family housing units, including energy conservation projects, in an amount not to exceed $58,644,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Eielson Air Force Base, Alaska, eighty-eight units, $6,186,000.

Elmendorf Air Force Base, Alaska, twelve units, $760,000.

Air Force Academy, Colorado, one unit, $120,000.

Peterson Air Force Base, Colorado, four units, $149,000.

MacDill Air Force Base, Florida, one hundred and fifty-eight units, $4,430,000; seven units, $553,000; seventy-one units, $2,103,000.

Scott Air Force Base, Illinois, one hundred and twelve units, $4,690,000.

Barksdale Air Force Base, Louisiana, one hundred and fourteen units, $5,342,000.

Bangor Air Force Station, Maine, one unit, $30,000.

Andrews Air Force Base, Maryland, seven units, $518,000.

Pease Air Force Base, New Hampshire, two-hundred units, $7,177,000.

Plattsburgh Air Force Base, New York, twenty-nine units, $2,272,000.

Shaw Air Force Base, South Carolina, one hundred and twenty-five units, $4,385,000; seventy-four units, $2,598,000.

Carswell Air Force Base, Texas, two hundred and three units, $7,478,000.

Lackland Air Force Base, Texas, sixty-four units, $1,920,000.

Randolph Air Force Base, Texas, five units, $402,000.

Reese Air Force Base, Texas, one hundred units, $2,895,000.

Langley Air Force Base, Virginia, five units, $441,000.

Andersen Air Force Base, Guam, two hundred units, $14,517,000.

Kadena Air Base, Japan, one hundred units, $5,054,000; three units, $240,000.

SEC. 2304. RESTRICTION ON CERTAIN MILITARY CONSTRUCTION FUNDING

Funds appropriated for military construction may not be used during fiscal year 1987 in connection with the basing at any military installation or facility other than Little Rock Air Force Base, Jacksonville, Arkansas, the eight KC-135 tanker aircraft that, as of June 1, 1986, were based at such Air Force base and assigned to the 189th Air Refueling Group of the Air National Guard.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,143,729,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $784,642,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $351,878,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $117,260,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $32,700,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $108,840,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $732,409,000, of which— 100 STAT. 4034

(i) not more than $5,600,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and

(ii) not more than $67,145,000 may be obligated or expended for the leasing of military family housing units in the foreign countries.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS FOR ENERGY CONSERVATION PROJECTS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1987 which could be used for energy conservation projects of the Department of the Air Force and which remain available for obligation are hereby authorized to be made available, to the extent provided in appropriation Acts, for energy conservation projects authorized in section 2301(a) in an amount not to exceed $9,470,000.

(c) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and the amount specified in subsection (b).

(d) USE OF CERTAIN FUNDS.—The Secretary of the Air Force may use not more than $350,000 of the amount appropriated pursuant to subsection (a)(3) to acquire approximately 20 acres of real property, and improvements thereon, located adjacent to Lake Wateree near Shaw Air Force Base, South Carolina.

SEC. 2306. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 302 of that Act shall remain in effect until October 1, 1987, or the date of enactment of the Military Construction Authorization Act for fiscal year 1988, whichever is later: 98 Stat. 1508.

(1) Fort MacArthur, California, 140 units, $15,100,000.

(2) RAF Greenham Common, United Kingdom, 250 units, $22,441,000.

(3) RAF Bentwaters, United Kingdom, 200 units, $20,163,000.

TITLE IV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Scott Air Force Base, Illinois, $7,600,000.

DEFENSE LANGUAGE INSTITUTE

Defense Language Institute, Monterey, California, $5,400,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Estero Bay, California, $680,000.
Defense Construction Supply Center, Columbus, Ohio, $860,000.
Defense Fuel Support Point, Charleston, South Carolina, $460,000
Defense Fuel Support Point, Naval Supply Center, Charleston, South Carolina, $5,130,000.
Defense Depot, Memphis, Tennessee, $1,160,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $16,700,000.

DEFENSE MEDICAL FACILITIES OFFICE

Edwards Air Force Base, California, $3,950,000.
Fort Ord, California, $530,000.
Pearl Harbor, Hawaii, $9,700,000.
Mountain Home Air Force Base, Idaho, $30,500,000.
Fort Polk, Louisiana, $2,650,000.
Keesler Air Force Base, Mississippi, $3,100,000.
McGuire Air Force Base, New Jersey, $3,800,000.
Kirtland Air Force Base, New Mexico, $16,000,000.
Camp Lejeune, North Carolina, $3,900,000.
Fort Hood, Texas, $3,450,000.
Brooks Air Force Base, Texas, $1,850,000.
Randolph Air Force Base, Texas, $13,700,000.
Fort Sam Houston, Texas, $135,000,000.

DEFENSE NUCLEAR AGENCY

Armed Forces Radiobiology Research Institute, Bethesda, Maryland, $790,000.
Field Command, Kirtland Air Force Base, New Mexico, $900,000.

JOINT TACTICAL COMMAND, CONTROL, AND COMMUNICATIONS AGENCY

Fort Huachucha, Arizona, $9,890,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $9,570,000.
Classified Location, $4,000,000.
Classified Location, $1,000,000.

DEFENSE-LEVEL ACTIVITIES

Classified Location, $3,000,000.

STRATEGIC DEFENSE INITIATIVE

Edwards Air Force Base, $4,140,000.
Pacific Missile Range, Kauai, Hawaii, $2,890,000.
White Sands Missile Range, New Mexico, $1,930,000.

UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

Bethesda, Maryland, $900,000.

100 STAT. 4036

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Chimu Wan, Japan, $6,640,000.
Defense Fuel Support Point, Tsurumi, Japan, $3,520,000.
Defense Reutilization and Marketing Office, Bupyong, Korea, $1,290,000.
Defense Fuel Support Point, Toegeywon, Korea, $1,010,000.

DEFENSE MEDICAL FACILITIES OFFICE

Boeblingen, Germany, $3,650,000.
Grafenwoehr, Germany, $3,950,000.
Karlsruhe, Germany, $6,800,000.
Vilseck, Germany, $5,600,000.
Camp Edwards, Korea, $1,800,000.
Camp Long, Korea, $1,850,000.
Camp Pelham, Korea, $720,000.
Camp New Amsterdam, The Netherlands, $6,000,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Florennes, Belgium, $1,260,000.
Naval Air Station, Bermuda, $4,280,000.
Aschaffenburg, Germany, $6,600,000.
Bad Kissingen, Germany, $1,330,000.
Baumholder, Germany, $1,600,000.
Dexheim, Germany, $2,430,000.
Erlangen, Germany, $3,220,000.
Gelnhausen, Germany, $1,130,000.
Grafenwoehr, Germany, $2,500,000.
Hahn, Germany, $3,470,000.
Heidelberg, Germany, $3,190,000.
Hessisch-Oldendorf, Germany, $2,310,000.
Hohenfels, Germany, $1,190,000.
Kaiserslautern, Germany, $7,880,000.
Nuernberg, Germany, $8,580,000.
Schwaebish Gmuend, Germany, $1,640,000.
Stuttgart, Germany, $4,530,000.
Wuerzburg, Germany, $7,760,000.
Seoul, Korea, $510,000.
Woensdrecht, The Netherlands, $7,420,000.

STRATEGIC DEFENSE INITIATIVE

Pacific Missile Range, Kwajalein, $1,340,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire three family housing units (including land acquisition) at classified locations in the total amount of $270,000.

SEC. 2403. BROOKE ARMY MEDICAL CENTER

(a) Authorization To Contract in Advance of Appropriations.—(1) Subject to paragraph (2), the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the design and construction of the military construction project authorized by section 2401 to be accomplished at Brooke Army Medical Center, San Antonio, Texas, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contract to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract. Such design and construction may be accomplished by using one-step turn-key selection procedures, or other competitive contracting methods. 100 STAT. 4037

(2) The design of the project referred to in paragraph (1) shall provide for a medical facility with space for 450 beds, but the initial construction shall provide for a medical facility with space for only 200 beds.

(b) Repeal Provision.—Section 104 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1498), is repealed.

SEC. 2404. HAZARDOUS WASTE STORAGE

(a) Authority To Construct.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987 pursuant to the authorization in section 2405(a), carry out military construction projects not otherwise authorized by law for the construction of hazardous waste storage facilities which are described in a report submitted by the Comptroller, Defense Logistics Agency, on September 22, 1986, to the Committees on Armed Services of the Senate and the House of Representatives.

(b) Notification to Congress.—When a decision is made to carry out a project under this section, the Secretary of Defense shall notify in writing the appropriate committees of Congress of that decision, the justification for the project, the estimated cost of the project, and the permit process for the project. The project may not be initiated until a period of 21 days has elapsed after the date on which the notification is received by the committees.

(c) Increase in Cost of Project.—The cost of a hazardous waste storage facility project carried out under this section may be increased by not more than 25 percent of the estimated cost of the project as contained in the notification provided to the committees pursuant to subsection (b) if the Secretary of Defense determines—

(A) that such an increase is required for the sole purpose of meeting unusual variations in cost; and

(B) that such variations in cost could not have been reasonably anticipated at the time the project justification was originally submitted to the committees.

(d) Definition.—As used in this section, the term "hazardous waste" includes both excess hazardous materials and hazardous wastes as defined by applicable laws and regulations.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $532,030,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $180,130,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $117,000,000.

(3) For the construction of a research and engineering facility at Fort Meade, Maryland, authorized by section 401(a) of the Military Construction Authorization Act, 1986, $38,000,000. 99 Stat. 618.

(4) For the construction of the Madigan Army Medical Center, Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,100,000. 98 Stat. 1495.

(5) For unspecified minor construction projects under section 2805 of title 10, United States Code, $4,000,000.

(6) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, $5,000,000.

(7) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $88,200,000.

(8) For conforming storage facilities, $10,000,000.

(9) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $270,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $17,330,000, of which not more than $14,027,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS AUTHORIZED IN THIS TITLE.—Notwithstanding the cost variations authorized by section 2858 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and $125,000,000 (the balance of the amount authorized for the construction of the Brooke Army Medical Center, Fort Sam Houston, Texas).

SEC. 2406. EXTENSION OF PRIOR YEAR AUTHORIZATIONS

Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), the authorizations for the following projects authorized in sections 401 and 402 of such Act shall remain in effect until October 1, 1987, or the date of the Military Construction Authorization Act for fiscal year 1988, whichever is later: 98 Stat. 1509, 1511.

(1) Defense property disposal office in the amount of $1,950,000 at Pearl Harbor Naval Shipyard, Hawaii.

(2) Six family housing units at classified locations in the amount of $693,000.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

100 STAT. 4039

(b) LIMITATION.—The Secretary may obligate funds under this section only to the extent funds are appropriated for use under section 2806 of title 10, United States Code.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1986, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $247,000,000.

SEC. 2503. AMENDMENT TO NATO INFRASTRUCTURE PROGRAM

(a) IN GENERAL.—Section 2806(a) of title 10, United States Code, is amended by inserting "and for related expenses" after "headquarters)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to contributions made with funds appropriated for fiscal years after fiscal year 1986. 10 USC 2806 note.

SEC. 2504. RESTRICTION ON CERTAIN FUNDING

10 USC 2806 note.

The Secretary of Defense may not obligate or expend any funds after fiscal year 1987 with respect to the North Atlantic Treaty Organization infrastructure program as provided in section 2806 of title 10, United States Code, until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives—

(1) a comprehensive master plan for establishing adequate active defenses for—

(A) air bases in Europe at which operations of United States aircraft are planned; and

(B) sites in Europe used by the United States for logistic support of the North Atlantic Treaty Organization or for prepositioned overseas materiel configured to unit sets; and

(2) a report containing a certification by the Secretary that sufficient funds have been budgeted by the Department of Defense in the fiscal year 1988 five-year defense plan to meet the objectives of such comprehensive master plan.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZATION FOR GUARD AND RESERVE FACILITIES

There are authorized to be appropriated for fiscal years beginning after September 30, 1986, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts: 10 USC 2231 *et seq.*

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $133,271,000, and

(B) for the Army Reserve, $86,700,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $44,500,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $145,325,000, and

(B) for the Air Force Reserve, $58,900,000.

TITLE VII—GENERAL PROVISIONS

PART A—EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1988, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later.

(b) Exception.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1988, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1989, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. CODIFICATION OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) Maximum Amount for Unspecified Minor Military Construction Projects.—Section 2805 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "the amount specified by law as the maximum amount for a minor military construction project" in clause (2) and inserting in lieu thereof "$1,000,000";

(2) in subsection (b)(1), by striking out "50 percent" and all that follows through "project" and inserting in lieu thereof "$500,000"; and

(3) in subsection (c), by striking out "20 percent" and all that follows through "project" and inserting in lieu thereof "$200,000".

10 USC 2807.

(b) Maximum Amount for Architectural and Engineering Services.—Section 2807(b) of such title is amended by striking out "the maximum amount specified by law for the purposes of this section" and inserting in lieu thereof "$300,000".

(c) Maximum Amount Per Unit for an Improvement Project for Family Housing Units.—Section 2825(b)(1) of such title is amended by striking out "an amount specified by law for such purpose" and inserting in lieu thereof "$30,000".

(d) Maximum Annual Rental for a Family Housing Unit in the United States.—Section 2828(b) of such title is amended—

(1) in paragraph (2), by striking out "the amount specified by law as the maximum annual domestic family housing unit lease amount" and inserting in lieu thereof "$10,000"; and

100 STAT. 4041

(2) in paragraph (3)(A), by striking out "the maximum annual domestic" and all that follows through the period and inserting in lieu thereof "$10,000 but does not exceed $12,000.".

10 USC 2828.

(e) Maximum Annual Rental for a Family Housing Unit Outside the United States.—Section 2828(e)(1) of such title is amended by striking out "the amount specified by law as the maximum annual foreign family housing unit lease amount" and inserting in lieu thereof "$16,800".

(f) Maximum Number of Family Housing Units Leased in Foreign Countries.—Section 2828(e)(2) of such title is amended by striking out "shall be specified by law" and inserting in lieu thereof "is 32,000".

(g) Maximum Annual Rental for Family Housing Facilities, or for Real Property Related to Family Housing Facilities, Leased in a Foreign Country.—Section 2828(f) of such title is amended by striking out "the amount specified by law for such purpose" and inserting in lieu thereof "$250,000".

Part B—Military Construction Program Provisions

SEC. 2711. TEST OF LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(1) of title 10, United States Code, is amended to read as follows:

"(1)(A) The Secretary concerned may enter into contracts for the construction, management, and operation of a facility on or near a military installation for the provision of an activity or service named in subparagraph (B) if the Secretary concerned has identified the proposed project in the budget proposal submitted to Congress and has determined that the facility can be more economically provided under a long-term contract than by conventional means.

"(B) The activities and services referred to in subparagraph (A) are as follows:

"(i) Child care services.

"(ii) Potable and waste water treatment services.

"(iii) Depot supply activities.

"(iv) Troop housing.

"(v) Transient quarters.

"(vi) Other logistic and administrative services, other than depot maintenance.".

SEC. 2712. PLANNING AND DESIGN

(a) IN GENERAL.—Section 2807 of title 10, United States Code, is amended by adding at the end the following new subsection:

Contract.

"(d) For study, planning, design, architectural, and engineering services related to military construction and family housing projects, the Secretaries of the military departments may incur obligations for contracts or portions of contracts using military construction and family housing appropriations from different fiscal years to the extent that those appropriations are available for obligation.".

10 USC 2807 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to funds appropriated for fiscal years after fiscal year 1985.

SEC. 2713. BUILD-TO-LEASE AND RENTAL GUARANTEE PILOT PROGRAMS

(a) RENTAL GUARANTEE PROGRAM.—(1) Subsection (b) of section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(A) in paragraph (2), by striking out "for operation and maintenance costs which shall (if included) be effective for the term of agreement";

(B) in paragraph (4), by adding "or, at the discretion of the Secretary of the military department concerned, in compliance with the local building codes" after "specifications";

(C) in paragraph (5), by striking out "15 years" and inserting in lieu thereof "25 years";

(D) by striking out "and" at the end of paragraph (10);

(E) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(F) by adding at the end the following new paragraph:

"(12) may provide in the agreement for the rental of a child care center, civic center building, and similar type buildings constructed for the support of family housing.".

(2) Subsection (g)(2) of such section is amended by striking out "600" and inserting in lieu thereof "1,200";

(3) Subsection (h) of such section is amended by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1990".

(b) BUILD-TO-LEASE PROGRAM.—Section 2828(g) of title 10, United States Code, is amended—

(1) in paragraph (8)(B), by striking out "600" and inserting in lieu thereof "1,600";

(2) in paragraph (9), by striking out "September 30, 1986" and inserting in lieu thereof "September 30, 1988"; and

(3) by adding at the end the following new paragraph:

Contract.

"(10) A contract for the lease of family housing under this subsection may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.".

SEC. 2714. FOREIGN LEASES FOR PERSONNEL HOLDING SPECIAL POSITIONS

Section 2828(e)(1) of title 10, United States Code, is amended by striking out "200" and inserting in lieu thereof "220".

PART C—MISCELLANEOUS PROVISIONS

SEC. 2721. POSTAL FACILITIES

Sections 4779 and 9779 of title 10, United States Code, are each amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 2722. COMMUNITY PLANNING ASSISTANCE

The Secretary of Defense may use not more than $200,000 from funds appropriated to the Department of Defense for fiscal year 1987 to provide planning assistance to local communities located near homeports proposed under the Naval Strategic Dispersal Program at Ingleside, Texas, and other Gulf Coast sites, if the Secretary determines that the financial resources available to the community (by grant or otherwise) are inadequate.

100 STAT. 4043

SEC. 2723. RELEASE OF CERTAIN USE RIGHTS HELD BY THE UNITED STATES

Virginia.

(a) IN GENERAL.—The Administrator of General Services shall release to the Virginia Port Authority, an instrumentality of the Commonwealth of Virginia, all residuary rights of use held by the United States in three warehouses located in the city of Norfolk, Virginia, within the area operated as a public port facility and known as the Norfolk International Terminals.

(b) TIME LIMITATION; COMPENSATION.—The Administrator of General Services shall execute such documents and take such other actions as may be necessary to release, within 180 days after the date of the enactment of this Act, the rights referred to in subsection (a). The release shall be made without any compensation in addition to compensation paid to the United States for such warehouses and other facilities by the city of Norfolk, Virginia, in 1968.

SEC. 2724. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Except as provided in subsection (b), funds appropriated pursuant to any authorization made by this Act may not be expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

Report.

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the end of the 21-day period beginning on the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—This section shall apply only to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2725. PROHIBITION ON DESIGN OF PENTAGON ANNEX

None of the funds appropriated pursuant to an authorization in this or any other Act may be used for the design of an administrative complex to be constructed on the property known as the Pentagon Reservation, Arlington, Virginia, for the purpose of supporting the headquarters of the Department of Defense or the military departments or the support functions of such headquarters.

SEC. 2726. STUDY OF NEEDS OF DEPENDENTS' EDUCATIONAL FACILITIES ON MILITARY INSTALLATIONS

(a) In General.—The Secretary of Defense and the Secretary of Education shall conduct a joint study for the purpose of determining the needs for construction, extension, remodeling, and rehabilitation of dependents' educational facilities on military installations in the United States and shall develop a joint policy to meet those needs.

100 STAT. 4044

(b) Report.—The Secretaries of Defense and Education shall, not later than April 1, 1987, transmit to the Congress a report containing—

(1) a description of the needs determined under subsection (a);

(2) the joint policy developed to meet such needs; and

(3) any recommendations for legislation the Secretaries consider necessary or appropriate to meet such needs.

SEC. 2727. STUDY OF USE OF PROPERTY AT LOS ALAMITOS ARMED FORCES RESERVE CENTER, CALIFORNIA, FOR MILITARY FAMILY HOUSING

(a) In General.—The Secretary of the Army and the Secretary of the Navy shall conduct a study concerning the potential use of the property currently being utilized as the Los Alamitos Armed Forces Reserve Center, California, for military family housing for the Navy.

(b) Matters To Consider.—In conducting the study described in subsection (a), each of the Secretaries shall take into consideration—

(1) the extensive number of complaints from residents concerning aircraft noise;

(2) the need for such military family housing;

(3) the public safety concerns involved with respect to military aircraft flying over a highly populated, urban area;

(4) the importance of maintaining facilities for the stationing of National Guard and other Reserve component units;

(5) the importance of maintaining facilities for the training of military aviation personnel;

(6) the importance of maintaining facilities for the maintenance of Army facilities and Army aircraft assigned to the California Army National Guard and the United States Army Reserve;

(7) the importance of the Los Alamitos Armed Forces Reserve Center, California, as a designated relief site in the event of a national disaster or emergency; and

(8) the costs associated with establishing and maintaining military family housing for the Navy at such Center.

(c) Recommended Action.—If the Secretaries find that the Center described in subsection (a) would not be suitable for military family housing or that it should not be so used, they shall recommend, in the report transmitted to the Committees pursuant to subsection (d), an alternate course of action for reducing the noise caused by aircraft traffic between the Center and the training area in the Santa Ana Mountains.

(d) Date of Transmittal.—The Secretaries described in subsection (a) shall transmit a copy of the findings and conclusions of the study carried out under this section to the Committees on Armed Services of the House of Representatives and the Senate. The transmissions shall be made no later than 90 days after the date of enactment of this Act.

SEC. 2728. REAL ESTATE ACQUISITION REPORT

New Mexico.

The Secretary of the Army shall, within 45 days of the date of the enactment of this Act, transmit to the Committees on Armed Services of the Senate and the House of Representatives a real estate acquisition report for the lease of temporary facilities located in Rio Rancho, New Mexico, for the Hawk Missile Battalion of the New Mexico Army National Guard that is to be permanently located near Rio Rancho, New Mexico.

PART D—REAL PROPERTY TRANSACTIONS

SEC. 2731. LAND CONVEYANCE, FORT HUACHUCA, ARIZONA

(a) AUTHORITY TO CONVEY.—The Secretary of the Army may convey to the State of Arizona all right, title, and interest of the United States in and to approximately 26 acres of real property (and improvements thereon) which comprise a portion of Fort Huachuca, Arizona, which border on State Highway 90 at Fort Huachuca, and which are located in the east half of Township 21 South, Range 20 East, Gila and Salt River Meridian.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized by subsection (a), the State of Arizona shall convey to the United States all right, title, and interest of the State in and to 1,536.47 acres of real property (and improvements thereon) owned by the State within the East Range at Fort Huachuca and to all mineral rights owned by the State in 12,943 acres of real property located within the East Range at Fort Huachuca. Title to such real property and mineral rights shall be conveyed free and clear of encumbrances and third party interests except to the extent waived by the Secretary.

(2) If the fair market value of the real property and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the real property and improvements and mineral interests conveyed to the United States under subsection (b), as determined by the Secretary, the State shall pay the difference to the United States. Any funds received under this section shall be covered into the general fund of the Treasury.

(c) AUTHORITY TO SELL ADDITIONAL ACREAGE.—(1) In addition to the acreage authorized to be conveyed under subsection (a), the Secretary may sell, subject to paragraphs (2) and (3), all right, title, and interest of the United States in and to approximately 203 acres of real property and improvements thereon (designated by the Secretary) comprising a portion of Fort Huachuca, Arizona.

(2) The sale of the real property and improvements referred to in paragraph (1) shall be conducted in accordance with competitive bidding procedures prescribed in section 2304 of title 10, United States Code. In no event may the real property and improvements be sold for less than the fair market value thereof. The fair market value of the property shall be established by an appraisal approved by the Secretary.

(3) If the fair market value of the real property and improvements and mineral rights conveyed to the United States pursuant to subsection (b) exceeds the fair market value of the real property and improvements conveyed by the United States pursuant to subsection (a), the Secretary may use the proceeds of the sale under paragraph (1) to pay the difference in value to the State of Arizona. Any proceeds of the sale not used for such purpose shall be covered into the general fund of the Treasury.

(d) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal descriptions of any property conveyed or acquired under this section shall be based upon surveys which are satisfactory to the Secretary.

(e) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary considers appropriate to protect the interests of the United States. 100 STAT. 4046

SEC. 2732. LEASE AND DEVELOPMENT OF CERTAIN REAL PROPERTY, SAN DIEGO, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may—

(1) enter into long-term leases of real property located within the Broadway Complex of the Department of the Navy, San Diego, California; and

(2) assist any lessee of such real property in financing the construction of any facility on such real property.

(b) CONSIDERATION.—(1)(A) In consideration for leasing the real property described in subsection (a), the Secretary shall obtain, without compensation or at substantially below market value, facilities or the use of facilities, or both, constructed on such real property by the lessees.

(B) The Secretary shall provide that the value of the facilities or the use of facilities, or both, obtained under subparagraph (A) (minus the amount of any compensation paid by the Secretary for the facilities or use of them) shall be at least equal to the value of the use of the real property leased under subsection (a), as determined by the Secretary.

(2) In consideration for assisting a lessee in financing the construction of any facility on such real property, the Secretary shall obtain an ownership interest in such facility that is at least equal in value to the amount of the financing provided by the Secretary.

(c) CONDITIONS.—(1) The Secretary shall provide that any real property leased under this section shall be developed in accordance with detailed plans and terms of development which have been duly formulated by the Secretary and the San Diego community through the San Diego Association of Governments' Broadway Complex Coordinating Group.

(2) A lease may not be entered into under this section until 21 days after the Secretary submits a plan for the development of the real property described in subsection (a) to the Committees of the Armed Services of the Senate and the House of Representatives, including a justification of how this plan is more advantageous to the United States than developing the real property with Federal funds.

(d) COMPETITIVE PROCEDURES.—Each lease entered into under subsection (a) shall be awarded through the use of competitive procedures.

(e) RIGHT TO ACQUIRE.—The Secretary may provide that the United States shall have the right of first refusal to acquire all right, title, and interest in and to any facility constructed on the real property subject to such lease.

(f) ADDITIONAL TERMS.—(1) A lease entered into by the Secretary under this section under which a facility is constructed by a private developer and leased to the Department of the Navy may provide for the operation and maintenance of such facility by the private developer.

(2) The Secretary may require such additional terms and conditions in connection with the leases authorized by this section as the 100 STAT. 4047 Secretary considers appropriate to protect the interests of the United States.

(g) LIMITATION.—The Secretary may obligate or expend amounts for—

(1) assisting in financing under subsection (a)(2);

(2) obtaining facilities or the use of facilities under (b)(1)(A); or

(3) acquiring interest in a facility under subsection (e),

only to the extent funds have been appropriated for such purpose.

SEC. 2733. SELECTION OF SITE FOR MILITARY FAMILY HOUSING AT SAN PEDRO, CALIFORNIA

(a) IN GENERAL.—(1) The Secretary of the Air Force shall consider appropriate sites in San Pedro, California, for the location and construction of 170 military family housing units for members of the Air Force assigned to duty in the area of San Pedro.

Real property. Defense and national security.

(2) The Secretary shall consider as an appropriate site for such housing only real property in the San Pedro area in which the United States has a reversionary interest for national defense purposes or real property which would be conveyed to the United States without charge.

(3) After the Secretary has selected one or more sites for such housing, he shall file a final environmental impact statement as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on each site determined by the Secretary to be appropriate for the purpose stated in paragraph (1). Within 10 days after the expiration of the 30-day period referred to in section 1506.10(b)(2) of title 40 of the Code of Federal Regulations, the Secretary shall select as a site for the location of the housing units referred to in subsection (a) one of the sites considered appropriate for such purpose.

(b) EXERCISE OF REVERSIONARY RIGHT.—(1) If the real property selected as the site for the housing units is subject to a reversionary right on behalf of the United States, the Secretary shall notify the Attorney General of the United States or other appropriate official that the site selected is needed for national defense purposes.

(2) The Attorney General or other appropriate official shall, within 15 days after receiving the notification referred to in paragraph (1), take such action as may be necessary to exercise the reversionary right held by the United States in the real property selected as the site for the housing.

(3) Within 15 days after the United States resumes ownership over the real property, the Attorney General or other appropriate official shall transfer jurisdiction of such real property to the Secretary.

(c) CONSTRUCTION OF MILITARY FAMILY HOUSING.—The Secretary shall use any real property made available pursuant to this section as the site for the construction of the 170 military family housing units referred to in subsection (a).

SEC. 2734. GRANTING OF EASEMENTS AND REPLACEMENT OF FAMILY HOUSING UNITS AND OTHER FACILITIES AT MARINE CORPS AIR STATION, EL TORO, CALIFORNIA

(a) AUTHORITY TO GRANT EASEMENTS.—Subject to subsection (b), the Secretary of the Navy may grant to the County of Orange, California, one or more easements through the Marine Corps Air Station, El Toro, California.

100 STAT. 4048

(b) MANDATE TO REPLACE FAMILY HOUSING AND OTHER FACILITIES.—(1) Subject to subsection (c), the Secretary shall provide for the replacement of all family housing units and other facilities that are to be demolished as a result of any easement granted under subsection (a).

(2) An easement granted under subsection (a) shall not become effective until the Secretary determines that—

(A) family housing units have been constructed to replace all the family housing units to be demolished as a result of such easement; and

(B) such replacement units meet the applicable requirements specified in the agreements referred to in subsection (a).

(3) Until the determination referred to in paragraph (2) is made, the Secretary shall continue to use, as military family housing, the housing units that are to be demolished as a result of an easement becoming effective.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any easement granted under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) Funding.—(1) The Secretary may use not more than $2,300,000 of the amount appropriated pursuant to section 2208(a)(7)(A) for payment in connection with the construction of replacement family housing units required by subsection (b).

(2) The Secretary may make available amounts for the construction of such replacement family housing units at the times specified in the agreements referred to in subsection (a).

(3) The Secretary may not use any of the funds available for the purposes of this section for the replacement of facilities other than family housing facilities.

SEC. 2735. LAND CONVEYANCE, MARCH AIR FORCE BASE, CALIFORNIA

(a) Authority To Sell.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of a tract of real property (together with improvements thereon), comprising a portion of March Air Force Base, California, known as West March and consisting of 845 acres, more or less.

(b) Conditions of Sale.—The Secretary shall require as a condition of the sale of the property referred to in subsection (a) that the purchaser—

(1) agree to construct on Government-owned real property at March Air Force Base, at the expense of the purchaser, in accordance with standards and specifications prescribed by the Secretary, a noncommissioned officers professional education center, a band center, and an addition to, or an alteration of, a combat operations center; and

(2) submit to the Secretary a master plan for the development of the real property referred to in subsection (a) that—

(A) is consistent (as determined by the Secretary) with the Air Installations Compatible Use Zone recommendations of the Air Force;

(B) is consistent (as determined by the Secretary) with the future plans of the Air Force for March Air Force Base and the plan for development of Air Force Village West; and

(C) is acceptable to the appropriate local government officials of the city and county of Riverside, California.

(c) Competitive Bid Requirement; Minimum Sale Price.—(1) The sale of any of the real property and improvements referred to in subsection (a) shall be carried out under competitive contracting procedures.

100 STAT. 4049

(2) In no event may property referred to in subsection (a) be sold for less than fair market value of such property. The value of the property to be conveyed and the consideration to be received shall be determined by appraisals approved by the Secretary. The Secretary may pay for such appraisals from any deposit made by the prospective purchaser, or the Secretary may be reimbursed for the cost of such appraisals from any such deposit. Any portion of the deposit used for such purpose shall be nonrefundable.

Contracts.

(d) Report Requirements.—(1) The Secretary may not enter into any contract for the sale of any or all of the property referred to in subsection (a) unless—

Report.

(A) the Secretary has submitted a report to the appropriate committees of Congress containing the information required in section 2667a(b) of title 10, United States Code; and

(B) a period of 21 days has expired following the date on which the report referred to in such section is received by those committees.

(2) Any report submitted under paragraph (1) shall include—

(A) the price and a description of terms agreed to with the successful bidder; and

(B) a description of the procedures used in selecting a buyer for the real property.

(e) Use of Excess Funds.—If the fair market value of the property to be conveyed to a purchaser is greater than the fair market value of the facilities to be constructed by the purchaser for the United States, the difference in cash shall be deposited into the general fund of the Treasury.

(f) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys approved by the Secretary. Such surveys shall be provided by the purchaser or paid for by the Secretary from a deposit made by the prospective purchaser at the time of award. Any portion of the deposit used for surveys shall be nonrefundable.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2736. LAND EXCHANGE, LONG BEACH NAVAL STATION, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (d), the Secretary of the Navy may exchange approximately 16 acres of real property (and improvements thereon) adjacent to Admiral Kidd Park at the Long Beach Naval Station, California, to the City of Long Beach, California, for real property (and improvements thereon) located on Hill Street, between Webster Avenue and the Terminal Island Freeway, in Long Beach, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the City under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States, the City shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

100 STAT. 4050

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the City of Long Beach.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2737. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (f), the Secretary of the Army may convey to Southern California Edison Company approximately 7.44 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood Control Basin, north of Rush Street and east of Walnut Grove Avenue, in Los Angeles County, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary.

(c) CONDITIONS.—(1) The Secretary may convey the real property described in subsection (a) only if—

Flood control.

(A) the Company grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood-control activities with respect to such real property; and

(B) the Company agrees to permit the County of Los Angeles to use a portion of such real property for parking in connection with recreation activities at Whittier Narrows Golf Course, as the Secretary considers appropriate.

(d) USE OF FUNDS.—Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury.

(e) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the company.

(f) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2738. AUTHORIZATION OF LAND CONVEYANCE TO CITY OF ARCADIA, CALIFORNIA

(a) In General.—Subject to subsection (b), the County of Los Angeles, California, may convey the land described in the Act entitled "An Act to convey certain land in the county of Los Angeles, State of California", approved March 24, 1933, to the City of Arcadia, California.

National parks, monuments, etc.

(b) Reverter.—Any land conveyed pursuant to subsection (a) shall be conveyed subject to the condition that the land be used only for public park, playground, or recreation purposes and that if the land is used for any other purpose, all right, title, and interest in and to such land shall revert to the United States and the United States shall have the immediate right of entry thereon.

100 STAT. 4051

SEC. 2739. LAND EXCHANGE, ORLANDO, FLORIDA

(a) In General.—Subject to subsections (b) through (e), the Secretary of the Army may convey to the City of Orlando, Florida, all right, title, and interest of the United States in and to a tract of real property located in Orlando, Florida, consisting of approximately 36 acres, together with improvements thereon, comprising the United States Army Reserve training facility located at the former McCoy Air Force Base, Orlando, Florida.

(b) Consideration.—In consideration for the conveyance by the Secretary under subsection (a), the City shall—

(1) convey to the United States a tract of real property consisting of approximately 36 acres located at Orlando Jetport, Orlando, Florida; and

(2) design, and construct on such real property, suitable replacement facilities, in accordance with the requirements of the Secretary, for the training activities of the United States Army Reserve.

(c) Payment by the City.—If the fair market value (as determined by the Secretary) of the real property and improvements conveyed by the United States to the City under subsection (a) exceeds the sum of the fair market value (as determined by the Secretary) of the property conveyed by the City to the United States and the fair market value of the facilities constructed by the City on the real property conveyed to the United States under subsection (b), the City shall pay to the United States an amount equal to the difference.

(d) Legal Description of the Real Property.—The exact acreages and legal description of properties to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate and to protect the interests of the United States.

SEC. 2740. SALE OF LAND AND REPLACEMENT OF CERTAIN WAREHOUSING FACILITIES, KAPALAMA MILITARY RESERVATION, HAWAII

(a) In General.—Subject to subsections (b) through (g), the Secretary of the Army may convey approximately 14.41 acres of real property, together with improvements thereon, at Kapalama Military Reservation, Hawaii, and may replace and relocate warehousing facilities located on such property.

(b) Consideration.—In consideration for the real property and improvements described in subsection (a), the purchasers of such property and improvements shall pay the United States—

(1) in a manner determined by the Secretary, for the cost of the design and construction of suitable replacement warehousing facilities to be constructed at Schofield Barracks, Hawaii;

(2) for any cost incurred by the Department of the Army under this section with respect to the relocation of warehousing facilities; and

(3) the amount of any difference referred to in subsection (d).

(c) Sale and Replacement Activities.—The Secretary may use any amount received from the purchaser under paragraphs (1) and
100 STAT. 4052 (2) of subsection (b) for the purpose of carrying out this section.

(d) Payment of Excess into Treasury.—If the fair market value of the real property and improvements described in subsection (a) exceeds the costs described in paragraphs (1) and (2) of subsection (b), as determined by the Secretary, the purchaser shall pay the amount of such difference to the Secretary, and the Secretary shall deposit such amount into the Treasury as miscellaneous receipts.

(e) Competitive Bid Procedures.—The conveyance described in subsection (a) shall be carried out under competitive bid procedures.

(f) Legal Description of Real Property.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2741. LAND EXCHANGE, AIEA, HAWAII

(a) In General.—The Secretary of the Navy may transfer to the United States Postal Service jurisdiction over approximately 3.2 acres of real property, together with improvements thereon, located in Aiea, Hawaii, if the Postal Service pays to the Secretary, out of funds available to the Postal Service for obligation, an amount equal to the greater of the following:

(1) The approved fair market value of the property over which jurisdiction is to be transferred (as determined by the Secretary).

(2) The cost of providing fleet laundry and dry cleaning facilities to the Navy to replace facilities located on the real property over which jurisdiction is to be transferred pursuant to this section.

(b) Legal Description of Real Property.—The exact acreage and legal description of the real property over which jurisdiction is to be transferred under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of the surveys shall be borne by the Postal Service.

(c) Additional Terms.—(1) The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

(2) If the fair market value of the property over which jurisdiction is to be transferred to the Postal Service under subsection (a exceeds the cost of the replacement fleet laundry and dry cleaning facilities, the Secretary shall deposit the excess into the general fund of the Treasury.

SEC. 2742. LAND EXCHANGE, SANTA FE, NEW MEXICO

(a) Authority To Convey.—(1) Subject to paragraph (4) of this subsection and to subsections (b) through (f), the Secretary of the Army may make the conveyances described in paragraphs (2) and (3).

(2) The Secretary may convey to the City of Santa Fe, New Mexico (hereinafter in this section referred to as the "City"), all right, title,

and interest of the United States in and to the southernmost 27.88 acres, more or less, of the parcel of land conveyed to the State of New Mexico in accordance with the Act of June 19, 1956 (70 Stat. 296) and currently being leased to the City as a public park.

(3) The Secretary may convey to the New Mexico State Armory Board (hereinafter in this section referred to as the "Board"), all 100 STAT. 4053 right, title, and interest of the United States in and to the northernmost 21.61 acres, more or less, of the parcel of land conveyed to the State of New Mexico in accordance with the Act of June 19, 1956 (70 Stat. 296), and currently serving as the location of the State headquarters of the New Mexico National Guard.

(4) Except as provided in subsection (f)(2), the conveyances authorized in paragraphs (2) and (3) shall be made without reimbursement to the United States.

(b) CONDITIONS.—The lands conveyed by the Secretary under subsection (a) shall be subject to the following conditions:

(1) The City shall, in accordance with the agreement entered into under subsection (d), provide to the Board a site of not less than 250 acres determined by the Board to be acceptable for the construction of—

(A) an armory for all New Mexico National Guard units located in Santa Fe, New Mexico;

(B) an organizational maintenance shop;

(C) a United States property and fiscal office building and warehouse;

(D) a headquarters complex for the New Mexico National Guard;

(E) a local training area for the New Mexico National Guard units;

(F) a complex for the New Mexico Army National Guard officer candidate school and noncommissioned officer academy; and

(G) additional facilities specified by the National Guard Bureau or the New Mexico State Armory Board.

(2) The Board shall use the land provided to it by the City pursuant to paragraph (1) for the training and support of the National Guard of New Mexico, and for other military purposes and if the site ever ceases to be used for such purposes, all right, title, and interest in and to such property shall revert to and become the property of the United States which shall have the immediate right of entry thereon.

(c) MINERAL RIGHTS.—The conveyances made by the Secretary under subsection (a) shall reserve all mineral rights, including oil and gas, to the United States in accordance with the Act of June 19, 1956 (70 Stat. 296).

(d) GENERAL AUTHORITY.—To implement the land exchange authorized by this section, the Secretary may enter into agreements with the City, the Board, and such other parties the Secretary determines are necessary to effectuate the purpose of this section.

(e) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the lands provided by the City to the Board in accordance with subsection (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the City or the Board.

(f) ADDITIONAL TERMS AND CONDITIONS.—(1) The Secretary may require such other terms and conditions with respect to the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

(2) The terms and conditions described in paragraph (1) may include a requirement for payment to the United States by the City or the Board, or both, to the extent (if any) that the value of the property conveyed by the United States pursuant to subsection (a)

100 STAT. 4054 exceeds the value of the property conveyed to the Board pursuant to subsection (b).

SEC. 2743. LEASE OF PROPERTY AT THE NAVAL WEAPONS STATION, CHARLESTON, SOUTH CAROLINA

(a) In General.—The Secretary of the Navy may lease to the South Carolina Ports Authority approximately 118 acres of real property, together with improvements thereon, at the Naval Weapons Station, Charleston, South Carolina.

(b) Term of Lease.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, but in no event to exceed 25 years.

(c) Consideration.—In addition to the fair rental value to be paid by the South Carolina Ports Authority for the premises leased pursuant to this section, such Authority shall pay for the cost of replacing certain facilities on the leased premises. The replacement facilities shall be constructed in a manner and at a site determined by the Secretary.

(d) Authority To Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the South Carolina Ports Authority to demolish existing facilities on the leased land and to construct new facilities on such land for the use of such Authority.

SEC. 2744. PROPERTY MANAGEMENT

Maryland.

In accordance with the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) governing transfers of excess property, the Administrator of General Services shall transfer, without reimbursement, to the Secretary of the Army approximately 235 acres of real property (and improvements thereon) near Beltsville, Maryland, for such use as the Secretary of the Army considers appropriate.

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

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TITLE I—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987.

SEC. 3101. SHORT TITLE

This title may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1987".

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3111. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1987 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,300,879,000 to be allocated as follows:

(A) For research and development, $866,000,000, of which $13,000,000 shall be used to continue operation or to close out plasma separation process activities.

(B) For weapons testing, $517,800,000.

(C) For production and surveillance, $1,859,700,000.

(D) For program direction, $57,379,000.

(2) For the defense inertial confinement fusion program $145,000,000.

(3) For verification and control technology, $95,390,000. 100 STAT. 4056

(4) For defense nuclear materials production, $1,516,348,000, to be allocated as follows:

(A) For uranium enrichment for naval reactors, $170,000,000.

(B) For other uranium enrichment, $14,500,000.

(C) For production reactor operations, $586,320,000.

(D) For processing of defense nuclear materials, including naval reactors fuel, $489,000,000, of which $70,900,000 shall be used for special isotope separation.

(E) For supporting services, $234,200,000.

(F) For program direction, $22,328,000.

(5) For defense nuclear waste and byproduct management, $431,990,000, to be allocated as follows:

(A) For interim waste management, $309,945,000.

(B) For long-term waste management technology, $80,605,000.

(C) For terminal waste storage, $39,100,000.

(D) For program direction, $2,340,000.

(6) For nuclear materials safeguards and security technology development program, $60,408,000.

(7) For security investigations, $33,300,000.

(8) For naval reactors development, $516,505,000.

SEC. 3112. PLANT AND CAPITAL EQUIPMENT

(a) AUTHORIZATIONS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1987 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 87-D-101, general plant projects, various locations, $29,000,000.

Project 87-D-104, safeguards and security enhancements, phase II, Lawrence Livermore National Laboratory, Livermore, California, $2,000,000.

Project 87-D-121, general plant projects, various locations, $30,000,000.

Project 87-D-123, protective clothing decontamination facility, Rocky Flats Plant, Golden, Colorado, $500,000.

Project 87-D-127, environmental, safety and health upgrade, Mound Plant, Miamisburg, Ohio, $2,400,000.

Project 87-D-130, receiving and shipping facility, Pinellas Plant, St. Petersburg, Florida, $300,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $5,300,000, for a total project authorization of $9,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $13,000,000, for a total project authorization of $17,000,000.

Project 86-D-105, instrumentation systems laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $5,800,000, for a total project authorization of $12,000,000.

100 STAT. 4057

Project 86-D-106, laboratory data communications center, Los Alamos National Laboratory, Los Alamos, New Mexico, $12,000,000, for a total project authorization of $15,000,000.

Project 86-D-122, structural upgrade of existing plutonium facilities, Rocky Flats Plant, Golden, Colorado, $2,420,000, for a total project authorization of $5,420,000.

Project 86-D-123, environmental hazards elimination, various locations, $15,000,000, for a total project authorization of $23,700,000.

Project 86-D-124, safeguards and site security upgrading, Phase II, Mound Plant, Miamisburg, Ohio, $1,880,000, for a total project authorization of $4,880,000.

Project 86-D-125, safeguards and site security upgrade, Phase II, Pantex Plant, Amarillo, Texas, $8,410,000, for a total project authorization of $9,910,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $29,700,000, for a total project authorization of $34,700,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $14,085,000, for a total project authorization of $114,885,000.

Project 85-D-103, safeguards and security enhancements, Lawrence Livermore National Laboratory and Sandia National Laboratories, Livermore, California, $6,500,000, for a total project authorization of $27,600,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Las Vegas, Nevada, $7,400,000, for a total project authorization of $22,000,000.

Project 85-D-106, hardened engineering test building, Lawrence Livermore National Laboratory, Livermore, California, $330,000, for a total project authorization of $3,030,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $19,000,000, for a total project authorization of $38,800,000.

Project 85-D-113, power plant and steam distribution system, Pantex Plant, Amarillo, Texas, $1,790,000, for a total project authorization of $24,790,000.

Project 85-D-115, renovate plutonium building utility systems, Rocky Flats Plant, Golden, Colorado, $13,440,000, for a total project authorization of $34,040,000.

Project 85-D-121, air and water pollution control facilities, Y-12 Plant, Oak Ridge, Tennessee, $9,160,000, for a total project authorization of $28,160,000.

Project 85-D-125, tactical bomb production facilities, various locations, $12,800,000, for a total project authorization of $28,800,000.

Project 84-D-102, radiation-hardened integrated circuit laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $3,000,000, for a total project authorization of $40,500,000.

Project 84-D-107, nuclear testing facilities revitalization, various locations, $13,300,000, for a total project authorization of $79,240,000.

Project 84-D-112, Trident II warhead production facilities, various locations, $14,500,000, for a total project authorization of $155,200,000.

100 STAT. 4058

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $9,280,000, for a total authorization of $38,280,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $27,220,000, for a total project authorization of $40,220,000.

Project 82-D-107, utilities and equipment restoration, replacement, and upgrade, Phase III, various locations, $97,904,000, for a total project authorization of $838,304,000.

Project 82-D-144, simulation technology laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $6,000,000, for a total project authorization of $40,000,000.

(2) For materials production:

Project 87-D-146, general plant projects, various locations, $31,980,000.

Project 87-D-149, reduced chemical discharges to process sewers, Richland, Washington, $3,150,000.

Project 87-D-150, radioactive liquid effluent treatment facility, partial design only, Richland, Washington, $4,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $1,500,000.

Project 87-D-159, environmental, health, and safety improvements, Phase I, Feed Materials Production Center, Fernald, Ohio, $10,000,000.

Project 86-D-149, productivity retention program, Phases I and II, various locations, $42,625,000, for a total project authorization of $66,825,000.

Project 86-D-150, in-core neutron monitoring system, N reactor, Richland, Washington, $2,760,000, for a total project authorization of $7,220,000.

Project 86-D-151, PUREX electrical system upgrade, Richland, Washington, $2,480,000, for a total project authorization of $4,980,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $5,410,000, for a total project authorization of $7,410,000.

Project 86-D-153, additional line III furnace, Savannah River, South Carolina, $7,605,000, for a total project authorization of $9,105,000.

Project 86-D-154, effluent treatment facility, Savannah River, South Carolina, $15,650,000, for a total project authorization of $18,150,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $8,550,000, for a total project authorization of $11,550,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $32,430,000, for a total project authorization of $54,430,000.

Project 85-D-140, productivity and radiological improvements, Feed Materials Production Center, Fernald, Ohio, $21,000,000, for a total project authorization of $39,000,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $27,500,000, for a total project authorization of $53,300,000. 100 STAT. 4059

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $7,515,000, for a total project authorization of $34,415,000.

Project 84-D-135, process facility modifications, Richland, Washington, $24,475,000, for a total project authorization of $56,975,000.

Project 84-D-136, enriched uranium conversion facility modifications, Y-12 Plant, Oak Ridge, Tennessee, $1,000,000, for a total project authorization of $20,600,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $3,511,000, for a total project authorization of $352,045,000.

(3) For defense waste and byproducts management:

Project 87-D-171, general plant projects, interim waste operations and long-term waste management technology, various locations, $24,535,000.

Project 87-D-172, WESF K-3 filter upgrade, Richland, Washington, $500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $2,800,000.

Project 87-D-174, 241-AQ tank farm, Richland, Washington, $2,100,000.

Project 87-D-175, steam system rehabilitation, Phase I, Richland, Washington, $900,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $700,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,000,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $960,000.

Project 86-D-172, B-plant F-filter, Richland, Washington, $2,949,000, for a total project authorization of $3,949,000.

Project 86-D-174, low-level waste processing and shipping system, Feed Materials Production Center, Fernald, Ohio, $8,072,000, for a total authorization of $10,572,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho National Engineering Laboratory, Idaho, $5,258,000, for a total project authorization of $7,258,000.

Project 85-D-158, central warehouse upgrade, Richland, Washington, $1,044,000, for a total project authorization of $6,744,000.

Project 85-D-159, new waste transfer facilities, Savannah River, South Carolina, $4,118,000, for a total project authorization of $24,118,000.

Project 85-D-160, test reactor area security system upgrade, Idaho National Engineering Laboratory, Idaho, $2,703,000, for a total project authorization of $6,953,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $123,967,000, for a total project authorization of $721,467,000.

(4) For naval reactors development:

Project 87-N-101, general plant projects, various locations, $4,800,000.

100 STAT. 4060

Project 87-N-102, Kesselring site facilities upgrade, Knolls Atomic Power Laboratory, West Milton, New York, $5,000,000.

Project 87-N-103, computation laboratory addition, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $2,300,000.

(5) For verification and control technology:

Project 85-D-171, Space Science Laboratory, Los Alamos, New Mexico, $2,000,000, for a total project authorization of $7,500,000.

(6) For capital equipment not related to construction:

(A) For weapons activities, $278,000,000.

(B) For the defense inertial confinement fusion program, $9,000,000.

(C) For materials production, $107,200,000.

(D) For defense waste and byproducts management, $35,505,000.

(E) For verification and control technology, $4,200,000.

(F) For nuclear safeguards and security, $4,800,000.

(G) For naval reactors development, $49,200,000.

(b) Reduction in Amount for Prior Project.—The amount previously authorized for Project 84-D-113, Antisubmarine Warfare/Standoff Weapon Warhead production facilities, various locations, is hereby reduced by $5,000,000, for a total project authorization of $5,000,000. Not more than $5,000,000 of the funds authorized for such project in fiscal year 1986 may be obligated or expended for such project.

SEC. 3113. AUTHORIZATION FOR STRATEGIC DEFENSE INITIATIVE ACTIVITIES

Of the amounts authorized to be appropriated in sections 3111 and 3112, $317,000,000 is authorized for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

Part B—Recurring General Provisions

SEC. 3121. REPROGRAMMING

(a) Notice to Congress.—(1) Except as otherwise provided in this title—

(1) no amount appropriated pursuant to this title may be used for any program in excess of 105 percent of the amount authorized for that program by this title or $10,000,000 more than the amount authorized for that program by this title, whichever is the lesser, and

(2) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy (hereinafter in this part referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) Limitation on Amount Obligated.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) In General.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the project does not exceed $1,200,000.

(b) Report to Congress.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish to the appropriate committees of Congress a complete report explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) In General.—Whenever the current estimated cost of a construction project which is authorized by section 3112 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress,

construction may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

To the extent specified in appropriation Acts, funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated. Funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) In General.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

Defense and national security.

In addition to the advance planning and construction design authorized by section 3112, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. ADJUSTMENTS FOR PAY INCREASES

Appropriations authorized by this title for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

SEC. 3129. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 3131. PROTECTION OF SENSITIVE TECHNICAL INFORMATION

42 USC 7261a.

Contracts.

(a) PROPERTY RIGHTS IN INVENTIONS AND DISCOVERIES.—Whenever any contractor makes an invention or discovery to which the title vests in the Department of Energy pursuant to exercise of section 202(a) (ii) or (iv) of title 35, United States Code, or pursuant to section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) or section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) in the course of or under any Government contract or subcontract of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy and the contractor requests waiver of any or all of the Government's property rights, the Secretary of Energy may decide to waive the Government's rights and assign the rights in such invention or discovery. Such decision shall be made within a reasonable time (which shall usually be six months from the date of the request by the contractor for assignment of such rights).

100 STAT. 4063

Defense and national security.

(b) MATTERS TO BE CONSIDERED.—In making a decision under this section, the Secretary shall consider, in addition to the applicable policies of section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) or subsections (c) and (d) of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)—

(1) whether national security will be compromised;

(2) whether sensitive technical information (whether classified or unclassified) under the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy for which dissemination is controlled under Federal statutes and regulations will be released to unauthorized persons;

(3) whether an organizational conflict of interest contemplated by Federal statutes and regulations will result; and

(4) whether failure to assert such a claim will adversely affect the operation of the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy.

42 USC 7273a.

SEC. 3132. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS

(a) Restriction.—Funds appropriated to the Department of Energy for the Naval Nuclear Propulsion Program or the nuclear weapons programs or other atomic energy defense activities of the Department of Energy may not be used to pay a penalty, fine, or forfeiture in regard to a defense activity or facility of the Department of Energy due to a failure to comply with any environmental requirement.

(b) Exception.—Subsection (a) shall not apply with respect to an environmental requirement if—

(1) the President fails to request funds for compliance with the environmental requirement; or

(2) the Congress has appropriated funds for such purpose (and such funds have not been sequestered, deferred, or rescinded) and the Secretary of Energy fails to use the funds for such purpose.

42 USC 2391 note.

SEC. 3133. COMMUNITY ASSISTANCE PAYMENTS

Section 1532 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (title XV of Public Law 99-145; 99 Stat. 773) is amended by adding at the end the following new subsection:

Tennessee.

"(d) Rule of Construction.—The authority of the Secretary of Energy under subsection (a) to provide a final financial settlement with Anderson County and Roane County, Tennessee, and with the City of Oak Ridge, Tennessee, and terminate all annual assistance payments made to those entities pursuant to section 91 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2391) does not affect any other right, function, or duty of the Secretary with respect to such Act (42 U.S.C. 2301), and the Secretary shall consider the purposes of such Act a continuing atomic energy defense function of the Department of Energy.".

SEC. 3134. AUTHORITY FOR DEPARTMENT OF ENERGY CONTRACTOR EMPLOYEES TO CARRY FIREARMS BEYOND BOUNDARIES OF A DOE FACILITY

42 USC 2201.

Section 161 k. of the Atomic Energy Act of 1954 is amended—

(1) by inserting "and subcontractors (at any tier)" in the second sentence after "employees of its contractors";

(2) by striking out "owned by the United States and" in the second sentence and inserting in lieu thereof "under the jurisdiction of the United States";

(3) by inserting "or being transported to or from such facilities" in the second sentence after "contracted to the United States";

(4) by inserting after the third sentence the following new sentence: "An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense."; and

(5) by striking out the semicolon at the end and inserting in lieu thereof the following: ". The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;".

SEC. 3135. REPORT ON CONTAINMENT FACILITIES

Safety.

The Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the costs and effects on safety that would result from constructing containment facilities for nuclear reactors of the Department of Energy compared with the costs and effects on safety involved in constructing a new production reactor. Such report shall be submitted not later than March 15, 1987.

SEC. 3136. STUDY OF PRODUCTION REACTOR SAFETY

Washington.
Union of Soviet Socialist Republics.

(a) REQUIREMENT FOR INDEPENDENT STUDY.—(1) The Secretary of Energy shall request the National Academy of Sciences and the National Academy of Engineering—

(A) to make an independent assessment of the safety of continuing operations of the "N" Production Reactor, located near Richland, Washington, including any technical and safety issues raised by the nuclear reactor accident at Chernobyl in the Soviet Union; and

Report.

(B) to provide a report on such assessment, together with findings and recommendations, concurrently to Congress and the Secretary not later than March 1, 1987.

(2) The assessment should—

(A) be made by distinguished scientists and engineers drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the National Institute of Medicine chosen with regard for their special competence and expertise; and

(B) be conducted in a manner that would allow for appropriate public participation in the review process consistent with statutory requirements to prevent the unauthorized disclosure of classified information.

Report.

(b) REVIEW AND COMMENT BY SECRETARY.—The Secretary shall review the findings and recommendations contained in the report under subsection (a) and shall separately provide to Congress a report containing—

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(1) the Secretary's comments on such findings and recommendations; and

(2) a description (including cost assessments) of plans of the Secretary to correct any technical problems described in the report or to carry out recommendations set forth in the report.

SEC. 3137. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE PRESIDENT'S BLUE RIBBON TASK GROUP ON NUCLEAR WEAPONS PROGRAM MANAGEMENT

(a) ESTABLISHMENT OF COUNCIL.—(1) Chapter 7 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 179.

"§ 179. Nuclear Weapons Council

"(a) There is a Joint Nuclear Weapons Council (hereinafter in this section referred to as the 'Council') composed of three members as follows:

"(1) The Director of Defense Research and Engineering.

"(2) The Vice Chairman of the Joint Chiefs of Staff.

"(3) One senior representative of the Department of Energy appointed by the Secretary of Energy.

"(b)(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member appointed under subsection (a)(1).

"(2) A meeting of the Council shall be chaired by the representative appointed under subsection (a)(3) whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

"(c)(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

"(2) The Assistant to the Secretary of Defense for Atomic Energy shall be the Staff Director of the Council.

"(d) The Council shall be responsible for the following matters:

"(1) Preparing the annual Nuclear Weapons Stockpile Memorandum.

"(2) Developing nuclear weapons stockpiles options and the costs of such options.

"(3) Coordinating programming and budget matters pertaining to nuclear weapons programs between the Department of Defense and the Department of Energy.

"(4) Identifying various options for cost-effective schedules for nuclear weapons production.

"(5) Considering safety, security, and control issues for existing weapons and for proposed new weapon program starts.

"(6) Ensuring that adequate consideration is given to design, performance, and cost tradeoffs for all proposed new nuclear weapons programs.

"(7) Providing broad guidance regarding priorities for research on nuclear weapons.

"(8) Preparing comments on annual proposals for budget levels for research on nuclear weapons and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

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"(9) Providing—

"(A) broad guidance regarding priorities for research on improved conventional weapons, and

"(B) comments on annual proposals for budget levels for research on improved conventional weapons,

and transmitting such guidance and comments to the Secretary of Defense before the preparation of the annual budget request of the Department of Defense.

Report.

"(e) The Council shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the actions that have been taken by the Department of Defense and the Department of Energy to implement the recommendations of the President's Blue Ribbon Task Group on Nuclear Weapons Program Management. The Council shall include in such report its recommendation on the role and composition of the staff on the Council. The Council shall submit such report to the Committees not later than March 1, 1987.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"179. Nuclear Weapons Council."

10 USC 179 note.

(b) CHAIRMAN OF JCS TO SERVE ON COUNCIL IF THERE IS NO VICE CHAIRMAN OF JCS.—If on the date of the enactment of this section the position of Vice Chairman of the Joint Chiefs of Staff, or comparable position, has not been established by law, the Chairman of the Joint Chiefs of Staff shall be a member of the Nuclear Weapons Council established by section 179 of title 10, United States Code, as added by subsection (a). If the position of Vice Chairman of the Joint Chiefs of Staff (or comparable position) is established by law after the date of the enactment of this section, the Chairman of the Joint Chiefs of Staff shall remain a member of such Council only until an individual has been appointed Vice Chairman of the Joint Chiefs of Staff.

(c) Repeal.—Section 27 of the Atomic Energy Act of 1954 (42 U.S.C. 2037) is repealed.

SEC. 3138. EXTENSION OF DATE FOR CERTAIN CONTRACT AUTHORITY

(a) Extension.—Section 94 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2394) is amended by striking out "June 30, 1986" and "June 30, 1987" and inserting in lieu thereof "June 30, 1996" in both places.

New Mexico.

(b) Budget Act Contract Limitation.—(1) Such section is further amended by adding at the end the following new sentence: "The authority to enter into a contract under the preceding sentence with the Los Alamos School Board and with the county of Los Alamos, New Mexico, shall be effective with respect to a period before July 1, 1996, only to the extent or in such amounts as are provided in appropriation Acts.".

42 USC 2394 note.

(2) The amendment made by paragraph (1) shall not apply with respect to a contract with the county of Los Alamos, New Mexico, to the extent that it covers the period before July 1, 1987.

TITLE II—NATIONAL DEFENSE STOCKPILE

SEC. 3201. EXTENSION OF PROHIBITION ON REDUCTIONS IN STOCKPILE GOALS

50 USC 98d note.

Section 1612(a)(1) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 776), is amended by striking out "October 1, 1986" and inserting in lieu thereof "October 1, 1987".

SEC. 3202. DESIGNATION OF NATIONAL DEFENSE STOCKPILE MANAGER

(a) Designation of Single Stockpile Manager.—The Strategic and Critical Materials Stockpiling Act is amended by inserting after section 6 the following new section:

"NATIONAL DEFENSE STOCKPILE MANAGER

President of U.S.
50 USC 98e-1.

"Sec. 6A. (a) The President shall designate a single Federal official to perform the functions of the President under this Act. The official designated shall be an officer who holds a civilian position to which the person was appointed by the President, by and with the advice and consent of the Senate.

"(b) The officer designated by the President under this section shall be known for purposes of his functions under this Act as the 'National Defense Stockpile Manager'.".

50 USC 98e-1 note.

(b) Deadline for Designation.—The President shall designate an official as the National Defense Stockpile Manager, as required by section 6A of the Strategic and Critical Materials Stock Piling Act (as added by subsection (a)), not later than February 15, 1987.

SEC. 3203. EXTENSION OF USES OF STOCKPILE TRANSACTION FUND AND CODIFICATION OF REVOLVING FUND PROVISIONS

(a) In General.—Section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C 98h(b)) is amended—

(1) by striking out the second sentence of paragraph (1); and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

50 USC 98d.

"(2) Subject to section 5(a)(1), moneys covered into the fund under paragraph (1) are hereby made available (subject to such limitations as may be provided in appropriation Acts) for the following purposes:

50 USC 98e.

"(A) The acquisition of strategic and critical materials under section 6(a)(1).

"(B) Transportation, storage, and other incidental expenses related to such acquisition.

"(C) Development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading).

"(D) Testing and quality studies of stockpile materials.

"(E) Studying future material and mobilization requirements for the stockpile.

"(F) Other reasonable requirements for management of the stockpile.

"(3) Moneys in the fund shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 110 of Public Law 97-377 (96 Stat. 1911) is amended by striking out "Notwithstanding" and all that follows through "That during" and inserting in lieu thereof "During".

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(c) APPLICABILITY OF AMENDMENTS.—The amendments made by subsection (a) apply with respect to funds covered into the National Defense Stockpile Fund before, on, or after the date of the enactment of this Act.

SEC. 3204. AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE

President of U.S.
50 USC 98d note.

(a) IN GENERAL.—(1) The President is authorized to dispose of the following quantities of materials that are currently held in the National Defense Stockpile (established by section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) and that are hereby determined to be excess to the current requirements of the stockpile:

Antimony	1,500 short tons
Diamonds, Industrial Stone	1,125,000 carats
Iodine	800,000 pounds
Mercury	3,700 flasks
Mica, Muscovite Film	3,000 pounds
Mica, Muscovite Splittings	262,000 pounds
Silicon Carbide	7,600 short tons
Silver (Coinage Program Only)	3,000,000 troy ounces
Tannin, Chestnut	1,000 long tons
Tannin, Quebracho	4,000 long tons
Thorium Nitrate	10,000 pounds
Tin	4,000 metric tons
Tungsten	1,900,000 pounds of tungsten metal equivalent

(2) Authority provided by paragraph (1) is in addition to any other authority provided by law to dispose of materials from the National Defense Stockpile.

Contracts.

(b) SPECIAL DISPOSAL AUTHORITY.—During fiscal year 1987, the President may contract to carry out authorized disposals of materials from the National Defense Stockpile without regard to the limitation in section 5(b)(2) of the Strategic and Critical Materials Stock Piling Act, but only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount obligated from the National Defense Stockpile Transaction Fund during such fiscal year for purposes authorized under section 9(b)(2) of such Act (as amended by section 3203).

50 USC 98d.

SEC. 3205. CONVERSION OF CHROMIUM AND MANGANESE ORE TO HIGH CARBON FERROCHROMIUM AND HIGH CARBON FERROMANGANESE

President of U.S.
Contracts.
50 USC 98d note.

(a) REQUIRED UPGRADING.—During each of fiscal years 1987 through 1993, the President shall—

(1) obtain bids from domestic producers of high carbon ferrochromium and of high carbon ferromanganese; and

(2) award contracts for the conversion of chromium and manganese ores held in the National Defense Stockpile into high carbon ferrochromium and high carbon ferromanganese, respectively.

(b) QUANTITIES TO BE UPGRADED.—(1) Contracts awarded under subsection (a) shall provide for the addition of not less than 53,500 short tons of high carbon ferrochromium and not less than 67,500 short tons of high carbon ferromanganese to the National Defense Stockpile during each of the fiscal years covered by subsection (a).

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(2) If, during any fiscal year referred to in subsection (a), the minimum quantity of high carbon ferrochromium or high carbon ferromanganese to be added to the National Defense Stockpile, as required by paragraph (1), is not met, the quantity of such material to be added to the stockpile in the next fiscal year shall be increased by the quantity of the deficiency.

(c) SEVEN-YEAR MINIMUM QUANTITIES.—The total quantities of high carbon ferrochromium and high carbon ferromanganese to be added to the National Defense Stockpile over the seven fiscal years referred to in subsection (a) shall be as follows:

(1) High carbon ferrochromium, 374,000 short tons.

(2) High carbon ferromanganese, 472,000 short tons.

(d) DEFINITION.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SEC. 3206. REPORT ON WAR EMERGENCY SITUATIONS AND MOBILIZATION REQUIREMENTS

(a) REQUIREMENT.—The Secretary of Defense shall submit to Congress a report describing war emergency situations that would necessitate total mobilization of the economy of the United States for a conventional global war of a duration of at least three years. With respect to each such war emergency situation, the Secretary shall include estimates of—

(1) the length and intensity of the assumed emergency;

(2) the military force structure to be mobilized; and

(3) the defense expenditures required during each such war emergency situation.

(b) STOCKPILE PLANNING.—The Secretary shall indicate in the report which of the war emergency situations described in the report should serve as the basis for planning for and management of the National Defense Stockpile.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than January 31, 1987.

SEC. 3207. MISCELLANEOUS TECHNICAL AMENDMENTS

(a) TECHNICAL AMENDMENTS.—(1) Section 4(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c(a)) is amended—

(A) by striking out "on the day before the date of the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraphs (1) and (3) and inserting in lieu thereof "on July 29, 1979", and

(B) by striking out "on or after the date of the enactment of the Strategic and Critical Materials Stock Piling Revision Act of 1979" in paragraph (2) and inserting in lieu thereof "after July 29, 1979".

(2) Section 5(b) of such Act (50 U.S.C. 98d(b)) is amended by striking out "(4)" and inserting in lieu thereof "(3), (4),".

(3) Section 11(b) of such Act (50 U.S.C. 98h-2) is amended by striking out "each year" and all that follows through "the next fiscal year" and inserting in lieu thereof "each year, at the time that the Budget is submitted to Congress pursuant to section 1105 of title 31, United States Code, for the next fiscal year,".

(b) CLARIFYING AMENDMENT.—Section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) is amended by striking out "the form most" and inserting in lieu thereof "a form more".

100 STAT. 4070

TITLE III—CIVIL DEFENSE

SEC. 3301. AUTHORIZATION OF APPROPRIATIONS FOR CIVIL DEFENSE FUNCTIONS

There is hereby authorized to be appropriated for fiscal year 1987 the sum of $120,565,000 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

Child Nutrition Amendments of 1986.

DIVISION D—CHILD NUTRITION PROGRAMS

42 USC 1751 note.

SEC. 4001. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This division may be cited as the "Child Nutrition Amendments of 1986".

(b) TABLE OF CONTENTS FOR DIVISION.—The table of contents for this division is as follows:

Sec. 4001. Short title; table of contents.

TITLE I—REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

Sec. 4101. Summer Food Service Program for children.
Sec. 4102. Commodity Distribution Program.
Sec. 4103. State administrative expenses.
Sec. 4104. Special supplemental food program for women, infants, and children.
Sec. 4105. Nutrition Education and Training Program.

TITLE II—SCHOOL LUNCH AND BREAKFAST PROGRAMS

Sec. 4201. Basis of commodity assistance.
Sec. 4202. Inclusion of whole milk as a school lunch beverage.
Sec. 4203. Automatic eligibility for certain programs.
Sec. 4204. Limitation on meal contracting.
Sec. 4205. Change in tuition limitation for private schools.
Sec. 4206. Use of school lunch facilities for elderly programs.
Sec. 4207. Pilot projects for administration of child nutrition programs by contract or direct disbursement.
Sec. 4208. Department of Defense Overseas Dependents' Schools.
Sec. 4209. Restoration of certain kindergartens to the special milk program.
Sec. 4210. Improvement of breakfast program meal pattern.
Sec. 4211. Extension of offer versus serve provision to the school breakfast program.
Sec. 4212. Staffing standards.

TITLE III—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Sec. 4301. Costs for Nutrition Services and Administration.
Sec. 4302. State eligibility for WIC funds.
Sec. 4303. Participation report.
Sec. 4304. Plan of operation and administration.
Sec. 4305. Public comment.
Sec. 4306. Availability of program benefits.
Sec. 4307. Repayment of certain benefits by recipients.
Sec. 4308. Priority funds for WIC migrant programs.
Sec. 4309. Improving State agency administrative systems.
Sec. 4310. Paperwork reduction.
Sec. 4311. Allocation standards.
Sec. 4312. Advance payments.
Sec. 4313. Availability of funds.

TITLE IV—OTHER NUTRITION PROGRAMS

Sec. 4401. Hearings on Federal audit actions under the Child Care Food Program.
Sec. 4402. Basis for nutrition education grants.
Sec. 4403. Extension of alternative means of assistance.
100 STAT. 4071 Sec. 4404. National Donated Commodity Processing Programs.

TITLE V—TECHNICAL CORRECTIONS

Sec. 4501. Obsolete provisions.
Sec. 4502. Obsolete references to Health, Education, and Welfare.
Sec. 4503. Conforming amendments.

TITLE I—REAUTHORIZATION OF CHILD NUTRITION PROGRAMS

SEC. 4101. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4102. COMMODITY DISTRIBUTION PROGRAM

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4103. STATE ADMINISTRATIVE EXPENSES

Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4104. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) in subsection (c)(2), by striking out "Subject to" and all that follows through "1984" and inserting in lieu thereof "Subject to amounts appropriated to carry out this section under subsection (g)";

(2) in subsection (g)—

(A) by designating the first and second sentences as paragraphs (1) and (3), respectively; and

(B) by amending paragraph (1) (as so designated) to read as follows:

"(1) There are authorized to be appropriated to carry out this section $1,570,000,000 for the fiscal year ending September 30, 1986, such sums as may be necessary for each of the fiscal years ending September 30, 1987, and September 30, 1988, and $1,782,000,000 for the fiscal year ending September 30, 1989."; and

(3) in subsection (h)(2), by striking out "1984" and inserting in lieu thereof "1989".

SEC. 4105. NUTRITION EDUCATION AND TRAINING PROGRAM

The first sentence of section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "1984" and inserting in lieu thereof "1989".

TITLE II—SCHOOL LUNCH AND BREAKFAST PROGRAMS

SEC. 4201. BASIS OF COMMODITY ASSISTANCE

Section 6(b) of the National School Lunch Act (42 U.S.C. 1755(b)) is amended—

(1) in the first sentence, by striking out "May 15" and inserting in lieu thereof "June 1"; and

(2) in the second sentence, by striking out "June 15" and inserting in lieu thereof "July 1".

100 STAT. 4072

SEC. 4202. INCLUSION OF WHOLE MILK AS A SCHOOL LUNCH BEVERAGE

Effective July 1, 1986, section 9(a) of the National School Lunch Act (42 U.S.C. 1758(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively; and

(2) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) In addition to such other forms of milk as the Secretary may determine, the lunches shall offer whole milk as a beverage.".

SEC. 4203. AUTOMATIC ELIGIBILITY FOR CERTAIN PROGRAMS

Effective July 1, 1986, section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end thereof the following new paragraph:

"(6)(A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is a member of—

"(i) a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(ii) an AFDC assistance unit (under the aid to families with dependent children program authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)), in a State where the standard of eligibility for the assistance does not exceed 130 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

"(B) Proof of receipt of food stamps or aid to families with dependent children shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).".

SEC. 4204. LIMITATION ON MEAL CONTRACTING

Effective July 1, 1986, section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced-price, and full-price reimbursable meals to all eligible children.".

SEC. 4205. CHANGE IN TUITION LIMITATION FOR PRIVATE SCHOOLS

(a) SCHOOL LUNCH PROGRAMS.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(1) in clause (A) of the first sentence, by striking out "$1,500" and inserting in lieu thereof "$2,000"; and

(2) by adding at the end thereof the following new sentence: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.".

(b) SCHOOL BREAKFAST PROGRAMS.—Section 15(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1784(c)) is amended—

100 STAT. 4073

(1) in clause (A) of the first sentence, by striking out "$1,500" and inserting in lieu thereof "$2,000"; and

(2) by adding at the end thereof the following new sentence: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available.".

42 USC 1760 note.

(c) APPLICATION.—(1) The amendments made by subsections (a)(1) and (b)(1) shall apply for the fiscal year beginning on October 1, 1986, and each school year thereafter.

(2) The amendments made by subsections (a)(2) and (b)(2) shall apply for the school year beginning on July 1, 1988, and each school year thereafter.

SEC. 4206. USE OF SCHOOL LUNCH FACILITIES FOR ELDERLY PROGRAMS

Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).".

SEC. 4207. PILOT PROJECTS FOR ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY CONTRACT OR DIRECT DISBURSEMENT

(a) PILOT PROJECTS.—Section 20 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966 (42 U.S.C. 1774).".

(b) CONFORMING AMENDMENT.—The first sentence of section 20(c) of the National School Lunch Act is amended by striking out "except for the pilot projects conducted under subsection (d) of this section,".

SEC. 4208. DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

(a) SCHOOL LUNCHES.—Section 22(d) of the National School Lunch Act (42 U.S.C. 1769b(d)) (as added by section 1408(a) of the Education Amendments of 1978 (92 Stat. 2368)) is amended by striking out "and for" and all that follows through "reduced-price lunch".

(b) SCHOOL BREAKFASTS.—Section 20(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1789) is amended by striking out "and for" and all that follows through "reduced-price breakfast".

SEC. 4209. RESTORATION OF CERTAIN KINDERGARTENS TO THE SPECIAL MILK PROGRAM

Effective October 1, 1986, section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after the subsection designation;

100 STAT. 4074

(B) by redesignating clauses (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as so redesignated), by inserting "except as provided in paragraph (2)," after "and under,";

(2) by designating the second through eighth sentences as paragraphs (3) through (9), respectively; and

(3) by inserting after paragraph (1) (as so designated) the following new paragraph:

"(2) The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.).".

SEC. 4210. IMPROVEMENT OF BREAKFAST PROGRAM MEAL PATTERN

(a) ADDITIONAL ASSISTANCE.—Effective October 1, 1986, section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall increase by 3 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766). These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.

Securities.
Agriculture and agricultural commodities.

"(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the National School Lunch Act.

State and local governments.

"(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).".

42 USC 1766 note.

(b) NUTRITION REQUIREMENTS.—(1) The Secretary of Agriculture shall review and revise the nutrition requirements for meals served under the breakfast program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) and section 17 of the National School Lunch Act (42 U.S.C. 1766) to improve the nutritional quality of the meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local food authorities.

Regulations.

(2) Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to implement the revisions.

SEC. 4211. EXTENSION OF OFFER VERSUS SERVE PROVISION TO THE SCHOOL BREAKFAST PROGRAM

Section 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.".

100 STAT. 4075

SEC. 4212. STAFFING STANDARDS

Ante, p. 4071.

Section 7 of the Child Nutrition Act of 1966 (42 U.S.C. 1776) (as amended by section 103) is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively.

TITLE III—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 4301. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) 'Costs for nutrition services and administration' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.".

(b) CONFORMING AMENDMENTS.—Section 17 of such Act is amended—

(1) by striking out "administrative funds" each place it appears in subsections (f)(11), (h)(2), (h)(3), and (h)(4) and inserting in lieu thereof "funds for nutrition services and administration"; and

(2) by striking out "administrative costs" each place it appears in subsection (h) and inserting in lieu thereof "costs for nutrition services and administration".

SEC. 4302. STATE ELIGIBILITY FOR WIC FUNDS

(a) ELIGIBILITY.—Section 17(c) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)) is amended by adding at the end thereof the following new paragraph:

"(4) A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.".

Taxes.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a State beginning with the fiscal year that commences after the end of the first regular session of the State legislature following the date of the enactment of this Act.

42 USC 1786 note.

SEC. 4303. PARTICIPATION REPORT

(a) BIENNIAL REPORT.—Section 17(d) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary shall report biennially to Congress on—

"(A) the income and nutritional risk characteristics of participants in the program;

"(B) participation in the program by members of families of migrant farmworkers; and

"(C) such other matters relating to participation in the program as the Secretary considers appropriate.".

(b) USE OF EVALUATION FUNDS FOR REPORT.—Section 17(g)(3) of such Act (as amended by section 104(2)(A)) is further amended by inserting "preparing the report required under subsection (d)(4)," after "health benefits,".

Ante, p. 4071.

SEC. 4304. PLAN OF OPERATION AND ADMINISTRATION

(a) PLAN.—Paragraph (1) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)) is amended to read as follows:

"(1)(A) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for a fiscal year.

State and local governments.

"(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

"(C) The plan shall include—

"(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

"(ii) a description of the financial management system of the State agency;

"(iii) a plan to coordinate operations under the program with special counseling services, such as the expanded food and nutrition education program, immunization programs, prenatal care, well-child care, family planning, alcohol and drug abuse counseling, child abuse counseling, and with the aid to families with dependent children, food stamp, and maternal and child health care programs;

"(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants and Indians;

Indians.

"(v) a plan to expend funds to carry out the program during the relevant fiscal year;

"(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State, if sufficient funds are available to carry out this clause;

"(vii) a plan to provide program benefits under this section to eligible persons most in need of the benefits and to enroll eligible women in the early months of pregnancy, to the maximum extent practicable; and

"(viii) such other information as the Secretary may require.

"(D) The Secretary may permit a State agency to submit only those parts of a plan that differ from plans submitted for previous fiscal years.

"(E) The Secretary may not approve any plan that permits a person to participate simultaneously in both the program

100 STAT. 4077 authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).".

42 USC 1786 note.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a plan submitted by a State agency under section 17(f)(1) of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1987, and each fiscal year thereafter.

SEC. 4305. PUBLIC COMMENT

Paragraph (2) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(2)) is amended to read as follows:

"(2) A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.".

SEC. 4306. AVAILABILITY OF PROGRAM BENEFITS

Paragraph (8) of section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(8)) is amended to read as follows:

State and local governments.

"(8)(A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible persons (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas).

"(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

"(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible persons who are most in need of the benefits, including pregnant women in the early months of pregnancy.".

SEC. 4307. REPAYMENT OF CERTAIN BENEFITS BY RECIPIENTS

Effective October 1, 1986, section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(15) If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective.".

SEC. 4308. PRIORITY FUNDS FOR WIC MIGRANT PROGRAMS

Effective date.

Ante, p. 4071.

(a) PRIORITY FUNDING.—Effective October 1, 1986, section 17(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)) (as amended by section 104(2)(A)) is further amended by inserting after paragraph (1) the following new paragraph:

"(2) Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent
100 STAT. 4078 shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.".

42 USC 1786 note.

(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.

SEC. 4309. IMPROVING STATE AGENCY ADMINISTRATIVE SYSTEMS

Section 17(g)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(3)) (as amended by sections 104(2)(A) and 303(b)) is further amended by inserting "providing technical assistance to improve State agency administrative systems," after "subsection (d)(4),". *Ante*, p. 4071.

SEC. 4310. PAPERWORK REDUCTION

Section 17(h)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall limit to a minimal level any documentation required under the preceding sentence.".

SEC. 4311. ALLOCATION STANDARDS

Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(1) in the second sentence, by striking out ", which satisfy allocation guidelines established by the Secretary"; and

(2) by striking out the last sentence.

SEC. 4312. ADVANCE PAYMENTS

Effective October 1, 1986, section 17(h)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(4)) is amended by striking out "shall" and inserting in lieu thereof "may".

SEC. 4313. AVAILABILITY OF FUNDS

(a) AVAILABILITY.—Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) by designating the first, second, third, fourth, and fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) (as so designated) the following new paragraph:

"(3)(A) Notwithstanding paragraph (2)—

State and local governments.

"(i) not more than 1 percent of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for expenses incurred under this section for supplemental foods during the preceding fiscal year; or

"(ii) not more than 1 percent of the amount of funds allocated to a State agency for a fiscal year under this section may be expended by the State agency during the subsequent fiscal year.

"(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.".

42 USC 1786 note.

(b) APPLICATION.—Section 17(i)(3)(A)(i) of the Child Nutrition Act of 1966 (as amended by subsection (a)) shall not apply to appropriations made before the date of enactment of this Act.

TITLE IV—OTHER NUTRITION PROGRAMS

SEC. 4401. HEARINGS ON FEDERAL AUDIT ACTIONS UNDER THE CHILD CARE FOOD PROGRAM

Section 17(e) of the National School Lunch Act (42 U.S.C. 1766(e)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraphs:

State and local governments.

"(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

"(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.".

SEC. 4402. BASIS FOR NUTRITION EDUCATION GRANTS

Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$50,000".

SEC. 4403. EXTENSION OF ALTERNATIVE MEANS OF ASSISTANCE

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'eligible school district' has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

99 Stat. 1594.

"(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district.

"(3)(A) On request of a participating school district (and after consultation with the Comptroller General of the United States with respect to accounting procedures used to determine any losses) and subject to the availability of funds, the Secretary shall provide cash compensation to an eligible school district for losses sustained by the district as a result of the alteration of the methodology used to conduct the study referred to in section 1581(a) of such Act during the school year ending June 30, 1983.

"(B) There are authorized to be appropriated $50,000 to carry out this paragraph, to be available without fiscal year limitation.".

7 USC 1431e note.

SEC. 4404. NATIONAL DONATED COMMODITY PROCESSING PROGRAMS

In accordance with the terms and conditions of section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)), whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary of Agriculture, the Secretary shall encourage consumption of the commodity through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies.

100 STAT. 4080

TITLE V—TECHNICAL CORRECTIONS

SEC. 4501. OBSOLETE PROVISIONS

(a) NUTRITION PROGRAM STAFF STUDY; TRUST TERRITORY APPROPRIATIONS.—(1) Sections 18 and 19 of the National School Lunch Act (42 U.S.C. 1767 and 1768) are repealed.

(2) The first sentence of section 3 of such Act (42 U.S.C. 1752) is amended by striking out "sections 13, 17, and 19" and inserting in lieu thereof "sections 13 and 17".

(b) STUDY OF MENU CHOICE.—Section 22 of such Act (42 U.S.C. 1769c) (as added by section 9 of the Child Nutrition Amendments of 1978 (92 Stat. 3623)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) The National School Lunch Act (as amended by sections 207 and 208(a) and subsection (b)) is further amended by redesignating sections 20, 21, and 22 (42 U.S.C. 1769, 1769a, and 1769b) as sections 18, 19, and 20, respectively.

(2) Clause (3) of the first sentence of section 6(a) of such Act (42 U.S.C. 1755(a)) is amended by striking out "section 20" and inserting in lieu thereof "section 18".

SEC. 4502. OBSOLETE REFERENCES TO HEALTH, EDUCATION, AND WELFARE

(a) REFERENCES IN NATIONAL SCHOOL LUNCH ACT.—Clause (1) of the sixth sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) References in Child Nutrition Act of 1966.—(1) The Child Nutrition Act of 1966 is amended by striking out "Health, Education, and Welfare" each place it appears in section 4(a) (42 U.S.C. 1773(a)), subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788) and inserting in lieu thereof "Health and Human Services".

42 USC 1771 note.

(2) Section 19(j)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(3)) is amended by striking out "Office of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

SEC. 4503. CONFORMING AMENDMENTS

(a) Definition of Secretary.—Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended by adding at the end thereof the following new paragraph:

"(8) 'Secretary' means the Secretary of Agriculture.".

(b) Redesignation of Subsection.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) (as amended by sections 105, 402, and 502(b)(2)) is further amended by redesignating subsection (j) as subsection (i).

Ante, pp. 4071, 4079, 4080.

Approved November 14, 1986.

LEGISLATIVE HISTORY—S. 2638 (H.R. 4428):

HOUSE REPORTS: No. 99-1001 (Comm. of Conference) and No. 99-718 accompanying H.R. 4428 (Comm. on Armed Services).
SENATE REPORTS: No. 99-331 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 132 (1986):
  Aug. 1, 4-9, considered and passed Senate.
  Aug. 4, 5, 7, 8, 11-15, H.R. 4428 considered and passed House.
  Sept. 18, proceedings vacated and S. 2638 considered and passed House, amended, in lieu of H.R. 4428.
  Oct. 15, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
  Nov. 14, Presidential statement.

DISTRICT OF COLUMBIA ACTS

Public Law 99-242
99th Congress

100 STAT. 4

An Act

Extending the waiver authority of the District of Columbia Revenue Bond Act of 1985 to certain revenue bond acts of the District of Columbia, and for other purposes.

Feb. 7, 1986
[H.R. 4027]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTING OF WAIVER.

Section 2(c) of the District of Columbia Revenue Bond Act of 1985 (Public Law 99-216) is amended by adding at the end thereof the following new paragraphs: 99 Stat. 1727.

"(3) The American University Revenue Bond Act of 1985 (Series A), District of Columbia Act 6-111, transmitted to the Speaker of the House and the President of the Senate December 4, 1985.

"(4) The George Washington University Revenue Bond Act of 1985 (Series A), District of Columbia Act 6-114, transmitted to the Speaker of the House and the President of the Senate December 18, 1985.".

SEC. 2. EFFECTIVE DATE OF ACTS; TREATMENT OF OBLIGATIONS.

(a) EFFECTIVE DATE.—The District of Columbia Acts referred to in the amendment made by section 1 shall take effect as if included in section 2(c) of the District of Columbia Revenue Bond Act of 1985 on the date of the enactment of such Act.

(b) TREATMENT OF OBLIGATIONS.—(1) Subject to paragraph (2), for purposes of any Act of Congress (and any amendments made by any Act of Congress) enacted after December 31, 1985, any obligation issued under the authority of the District of Columbia Acts made effective under subsection (a) shall be deemed to have been issued on December 31, 1985.

(2) Paragraph (1) shall apply only to obligations issued not more than sixty days after the date of the enactment of this Act.

Approved February 7, 1986.

LEGISLATIVE HISTORY—H.R. 4027:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Jan. 27, considered and passed House.
Jan. 30, considered and passed Senate.

100 STAT. 3228 Public Law 99-573
99th Congress

An Act

Oct. 28, 1986
[H.R. 3578]

To provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes.

District of Columbia Judicial Efficiency and Improvement Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Judicial Efficiency and Improvement Act of 1986".

SEC. 2. HEARING COMMISSIONERS.

(a) Section 1732 of title 11 of the District of Columbia Code is amended to read as follows:

"§ 11-1732. Hearing commissioners.

"(a) With the approval of a majority of the judges of the Superior Court of the District of Columbia in active service and subject to standards and procedures established by the rules of the Superior Court, the chief judge of the Superior Court may appoint Hearing Commissioners, who shall serve in the Superior Court and perform the duties enumerated in subsection (j) of this section and such other functions incidental to these duties as are consistent with the rules of the Superior Court and the Constitution and laws of the United States and of the District of Columbia.

"(b) Hearing commissioners shall be selected pursuant to standards and procedures adopted by the Board of Judges. Such procedures shall contain provisions for public notice of all vacancies in hearing commissioner positions and for the establishment by the Court of an advisory merit selection panel, composed of lawyer and nonlawyer residents of the District of Columbia who are not employees of the District of Columbia Courts, to assist the Board of Judges in identifying and recommending persons who are best qualified to fill such positions.

"(c) No individual shall be appointed as a hearing commissioner unless that individual—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding the appointment or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or District government; and

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to appointment, and retains such residency during service as a hearing commissioner, except that Hearing Commissioners appointed prior to the effective date of this section shall not be required to be residents of the District to be eligible to be appointed to one of the initial terms under this section or to be reappointed.

100 STAT. 3229

"(d) Hearing commissioners shall be appointed for terms of four years and may be reappointed for terms of four years. Those individuals serving as hearing commissioners on the effective date of this Act shall be automatically appointed for a four year term.

"(e) Upon the expiration of a hearing commissioner's term, the hearing commissioner may continue to perform the duties of office until a successor is appointed, or for 90 days after the date of the expiration of the hearing commissioner's term, whichever is earlier.

"(f) No individual may serve as a hearing commissioner under this section after having attained the age of seventy-four.

"(g) The Board of Judges may suspend, involuntarily retire, or remove a hearing commissioner, during the term for which the hearing commissioner is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability. Suspension, involuntary retirement, or removal requires the concurrence of a majority of the judges in active service. Before any order of suspension, involuntary retirement, or removal shall be entered, a full specification of the charges and the opportunity to be heard shall be furnished to the hearing commissioner pursuant to procedures established by rules of the Superior Court.

"(h) If the Board of Judges determines that a hearing commissioner position is not needed, the Board of Judges may terminate the position.

"(i)(1) Hearing commissioners may not engage in the practice of law, or in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as officers of the court.

"(2) Hearing commissioners shall abide by the Canons of Judicial Ethics.

"(j) A hearing commissioner, when specifically designated by the chief judge of the Superior Court, and subject to the rules of the Superior Court and the right of review under subsection (k), may perform the following functions:

"(1) Administer oaths and affirmations and take acknowledgements;

"(2) Determine conditions of release pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedure);

"(3) Conduct preliminary examinations and initial probation revocation hearings in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it;

Children and youth.

"(4)(A) In any case brought under sections 11-1101(1), (3), (10), or (11) of the District of Columbia Code involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a hearing commissioner in the Family Division of the Superior Court finds that there is an existing duty of support, the hearing commissioner shall conduct a hearing on support, make findings, and enter judgment as provided by law, and in accordance with guidelines established by rule of the Superior Court, which judgment shall constitute a final order of the Superior Court.

"(B) If in a case under paragraphs (A), the hearing commissioner finds that a duty of support exists and makes a finding that the case involves complex issues requiring judicial resolution, the hearing commissioner shall establish a temporary support obligation and refer unresolved issues to a judge of the Superior Court.

"(C) In cases under subparagraphs (A) and (B) in which the hearing commissioner finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceeding under any applicable statute or court rule, if that individual fails to appear or otherwise respond, the hearing commissioner shall enter a default order, which shall constitute a final order of the Superior Court;

"(5) Subject to the rules of the Superior Court and with the consent of the parties involved, make findings and enter final orders or judgments in other uncontested or contested proceedings, in the Civil, Criminal, and Family Divisions of the Superior Court, excluding jury trials and trials of felony cases.

"(k) With respect to proceedings and hearings under paragraphs (2), (3), (4), and (5) of subsection (j), a review of the hearing commissioner's order or judgment, in whole or in part, may be made by a judge of the appropriate division sua sponte and must be made upon a motion of one of the parties made pursuant to procedures estab-

lished by rules of the Superior Court. The reviewing judge shall conduct such proceedings as required by the rules of the Superior Court. An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Superior Court has reviewed the order or judgment.

"(l) The Superior Court shall ensure that all hearing commissioners receive training to enable them to fulfill their responsibilities.

"(m)(1) The chief judge of the Superior Court, in consultation with the District of Columbia Bar, the City Council of the District of Columbia, and other interested parties, shall within one year of the effective date of this section, make a careful study of conditions in the Superior Court to determine—

"(A) the number of appointments required to provide for the effective administration of justice;

"(B) the divisions in which hearing commissioners shall serve;

"(C) the appropriate functions of hearing commissioners; and

"(D) the compensation of, and other personnel matters pertaining to, hearing commissioners.

Reports.

Upon completion of the study, the chief judge shall report the findings of such study to the appropriate committees of the Congress.

"(2) After the study required by paragraph (1), the chief judge shall, from time to time, make such studies as the Board of Judges shall deem expedient, giving consideration to suggestions of the District of Columbia Bar and other interested parties.

"(n) With the concurrence of the District of Columbia Court of Appeals, the Board of Judges of the Superior Court may, promulgate rules, not inconsistent with the terms of this section, which are necessary for the fair and effective utilization of hearing commissioners in the Superior Court.

"(o) For purposes of this section, the term 'Board of Judges' means the judges of the Superior Court of the District of Columbia. Any action of the Board of Judges shall require a majority vote of the sitting judges.".

100 STAT. 3231

SEC. 3. APPOINTMENT OF EXECUTIVE OFFICER OF THE DISTRICT OF COLUMBIA COURTS.

Section 1703 of title 11 of the District of Columbia Code is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following new subsections:

"(b) The Executive Officer shall be appointed, and subject to removal, by the Joint Committee on Judicial Administration with the approval of the chief judges of the District of Columbia Courts. In making such appointment the Joint Committee shall consider experience and special training in administrative and executive positions and familiarity with court procedures.

"(c) The Executive Officer shall be a bona fide resident of the District of Columbia or become a resident not more than 180 days after the date of appointment except that the Executive Officer in office at the effective date of this Act shall not be required to be or to become a resident of the District of Columbia.".

SEC. 4. MANDATORY RETIREMENT AGE OF JUDGES.

87 Stat. 792.

Section 431(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "seventy" and inserting in lieu thereof "seventy-four".

SEC. 5. REORGANIZATION OF AUDIT RESPONSIBILITY.

(a) AUDITOR-MASTER.—Section 11-1724 of title 11 of the District of Columbia Code is amended—

(1) by striking out "(1) audit and state fiduciary accounts,"; and

(2) by respectively designating clauses (2) and (3) as clauses "(1)" and "(2)".

(b) REGISTER OF WILLS.—Section 11-2104(a) of title 11 of the District of Columbia Code is amended—

(1) in paragraph (2) by striking out "and" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(4) audit and state fiduciary accounts.".

SEC. 6. ELIMINATION OF DUPLICATE JUDICIAL FINANCIAL REPORTING REQUIREMENT.

(a) TERMINATION OF FEDERAL DISCLOSURE REQUIREMENTS.—Section 303 of the Ethics in Government Act of 1978 (28 U.S.C. App. 301) is amended by inserting at the end thereof the following new subsection:

"(h) The provisions of this Act shall not apply to any judicial officer or employee of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals or any other employee of the District of Columbia court system.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 308(9) of such Act (28 U.S.C. App. 308(9)) is amended by striking out "courts of the District of Columbia".

SEC. 7. CERTIFICATION OF QUESTIONS OF LAW.

Subchapter II of Chapter 7, title 11, District of Columbia Code, is amended by inserting after section 11-722 the following new section:

"§ 11-723. Certification of Questions of Law.

"(a) The District of Columbia Court of Appeals may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if there are involved in any proceeding before any such certifying court questions of law of the District of Columbia which may be determinative of the cause pending in such certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the District of Columbia Court of Appeals.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon the court's motion or upon motion of any party to the cause.

"(c) A certification order shall set forth (1) the question of law to be answered; and (2) a statement of all facts relevant to the questions certified and the nature of the controversy in which the questions arose.

"(d) A certification order shall be prepared by the certifying court and forwarded to the District of Columbia Court of Appeals. The District of Columbia Court of Appeals may require the original or copies of all or such portion of the record before the certifying court as are considered necessary to a determination of the questions certified to it.

"(e) Fees and costs shall be the same as in appeals docketed before the District of Columbia Court of Appeals and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(f) The District of Columbia Court of Appeals may prescribe the rules of procedure concerning the answering and certification of questions of law, under this section.

"(g) The written opinion of the District of Columbia Court of Appeals stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

State and local governments.

"(h)(1) The District of Columbia Court of Appeals, on its own motion or the motion of any party, may order certification of questions of law to the highest court of any State under the conditions described in subsection (a).

"(2) The procedures for certification from the District of Columbia to a State shall be those provided in the laws of that State.".

SEC. 8. PUBLIC ACCESS TO MATERIALS OF JUDICIAL NOMINATION COMMISSION.

Records. Classified information. 87 Stat. 796.

Section 434(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out the last sentence and inserting in lieu thereof: "Information, records, and other materials furnished to or developed by the Commission in the performance of its duties under this section shall be privileged and confidential. Section 552 of title 5, United States Code (known as the Freedom of Information Act), shall not apply to any such materials.".

SEC. 9. MEETINGS OF THE JUDICIAL NOMINATION COMMISSION.

87 Stat. 796.

87 Stat. 831.

Section 434(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof "Meetings of the Commission may be closed to the public. Section 742 of this Act shall not apply to meetings of the Commission.".

SEC. 10. PUBLIC ANNOUNCEMENT OF JUDICIAL RECOMMENDATIONS.

Section 434(d) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof the following new paragraph:

Public information.

"(4) Upon submission to the President, the name of any individual recommended under this subsection shall be made public by the Judicial Nomination Commission.".

SEC. 11. DISCLOSURE OF CERTAIN INFORMATION TO THE JUDICIAL NOMINATION COMMISSION.

Section 11-1528 of title 11, District of Columbia Code, is amended by striking out all of subsection (a) and inserting in lieu thereof the following:

Records. Classified information.

"(a)(1) Subject to paragraph (2), the filing of papers with, and the giving of testimony before, the Commission shall be privileged. Subject to paragraph (2), hearings before the Commission, the record thereof, and materials and papers filed in connection with such hearings shall be confidential.

"(2)(A) The judge whose conduct or health is the subject of any proceedings under this chapter may disclose or authorize the disclosure of any information under paragraph (1).

"(B) With respect to a prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection with such hearing shall be disclosed to the extent required for such prosecution or review.

"(C) Upon request, the Commission shall disclose, on a privileged and confidential basis, to the District of Columbia Judicial Nomination Commission any information under paragraph (1) concerning any judge being considered by such nomination commission for elevation to the District of Columbia Court of Appeals or for chief judge of a District of Columbia court.".

SEC. 12. REAPPOINTMENT TO JUDICIAL OFFICE.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended— 87 Stat. 795.

(1) in the first sentence by striking out "three months" and inserting in lieu thereof "six months"; and

(2) in the second sentence, by striking out "thirty" and inserting in lieu thereof "sixty".

SEC. 13. MODIFICATION OF JUDICIAL REAPPOINTMENT EVALUATION CATEGORIES.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended in the third sentence by striking out "exceptionally well-qualified or".

SEC. 14. SERVICES OF RETIRED JUDGES.

(a) SENIOR JUDGES.—The second sentence of section 1504(a)(1) of title 11, District of Columbia Code, is amended by striking "every

two years" and inserting "every four years, unless the Senior Judge has reached his or her seventy-fourth birthday, whereupon review shall be at least every two years,".

(b) REQUEST FOR SENIOR JUDGESHIP.—Section 1504(a) of title 11, District of Columbia Code, is further amended by striking out paragraphs (2) and (3) and inserting after paragraph (1) the following new paragraph:

"(2) At any time prior to or not later than one year after retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter in this section referred to as the 'Commission') to be appointed as a senior judge in accordance with this section; except that any retired judge shall have not less than 180 days from the effective date of this Act to file a request for an initial recommendation from the Commission."

(c) SERVICE BY RETIRED JUDGES.—Section 1565 of title 11, District of Columbia Code, is amended to read as follows:

"§ 11-1565. Service by Retired Judges.

Wages.

"Any retired judge performing judicial duties as a senior judge on the District of Columbia Court of Appeals or the Superior Court shall be entitled, during the period for which he or she serves, to receive the same daily rate of pay as a judge on the court in which he or she performs such duties. The cumulative daily earnings of a senior judge, in any single year, when added to the annual retirement salary, may not exceed the current annual salary of a judge of the court in which he or she performs such duties. No deduction shall be withheld for health benefits, Federal employee's life insurance, or retirement purposes from the salary paid to a judge during judicial service. The performance of such judicial service shall not create an additional retirement, change retirement, or create, or in any manner affect a survivor annuity.".

Health and medical care.
Insurance.

SEC. 15. EXTENSION OF PERIOD FOR SUBMITTING JUDICIAL NOMINATIONS.

Section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "thirty days" each place it appears and inserting in lieu thereof "sixty days". 87 Stat. 796.

SEC. 16. JUDICIAL COMPENSATION.

(a) COURT OF APPEALS.—Section 703(b) of title 11 of the District of Columbia Code is amended by striking out "90 per centum of".

(b) SUPERIOR COURT.—Section 904(b) of title 11 of the District of Columbia Code is amended by striking out "90 per centum of".

SEC. 17. CHIEF JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS PRESIDING OFFICER OF THE PUBLIC DEFENDER SERVICE.

Section 330 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (Public Law 91-358; 1-2703, D.C. Code) is amended—

(1) by striking out clause (A) of subsection (b)(1) and redesignating clauses (B), (C), (D), and (E) as clauses (A), (B), (C), and (D), respectively; and

(2) in paragraph (2) of subsection (b) by striking out "Chief Judge of the United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "Chief Judge of the District of Columbia Court of Appeals".

28 USC app. 301 note.

SEC. 18. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 3578:

HOUSE REPORTS: No. 99-326 (Comm. on the District of Columbia).
SENATE REPORTS: No. 99-477 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
 Vol. 131 (1985): Oct. 28, considered and passed House.
 Vol. 132 (1986): Oct. 3, considered and passed Senate, amended.
 Oct. 10, House concurred in Senate amendment.

EDUCATION ACTS

Public Law 99-320
99th Congress

100 STAT. 491

An Act

To make technical corrections in the higher education title of the Consolidated Omnibus Budget Reconciliation Act of 1985.

May 23, 1986
[S. 2329]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Student Financial Assistance Technical Corrections Act of 1986".

Student Financial Assistance Technical Corrections Act of 1986.
20 USC 1001 note.

SEC. 2. (a) Section 16014(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (hereafter in this Act referred to as "the Act") is amended—

Ante, p. 341.

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively; and

(2) by inserting before paragraph (2), as redesignated by clause (1), the following new paragraph:

"(1) Section 428(c)(1)(A) of the Act is amended by inserting before the period at the end of the first sentence of such section a comma and the following: 'including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)'.".

20 USC 1078.

(b) Section 16016 of the Act is amended by striking out "section 435(d)(1)(D)" and inserting in lieu thereof "section 435(g)(1)(D)".

Ante, p. 343.
20 USC 1085.

(c) The second sentence of section 16023 of the Act is amended by striking out "to the Secretary" and inserting in lieu thereof "by the Secretary".

Ante, p. 349.

(d)(1) Section 16041(b)(1) of the Act is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

Ante, p. 356.
20 USC 1072 note.

(2) Section 16041(d) of the Act is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

Approved May 23, 1986.

LEGISLATIVE HISTORY—S. 2329:

CONGRESSIONAL RECORD, Vol. 132 (1986):
- Apr. 24, considered and passed Senate.
- May 13, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS: Vol. 22, No. 21 (1986):
- May 23, Presidential statement.

100 STAT. 761

Public Law 99-357
99th Congress

An Act

July 8, 1986
[H.R. 4841]

To amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOTMENTS UNDER THE CARL D. PERKINS VOCATIONAL EDUCATION ACT.

20 USC 2311.

Section 101(a)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows:

20 USC 2331, 2361.

98 Stat. 3305; 99 Stat. 293.

"(3)(A)(i) Notwithstanding any other provision of law and subject to clause (ii), for any fiscal year for programs authorized by title II or part B of title III of this Act, no State shall receive less than the payments made to the State for each such program for fiscal year 1985 under Public Laws 98-619 and 99-88. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States, but no such amount shall be reduced to an amount which is less than the amount a State received under the Act for each such program for fiscal year 1985.

"(ii) If for any fiscal year the amount appropriated for programs authorized by title II or part B of title III and available for allotment under this section is insufficient to satisfy the provisions of clause (i), the payments to all States for each such program shall be ratably reduced as necessary.

20 USC 2351-2393.

"(B)(i) Notwithstanding any other provision of law and subject to subparagraph (A) and clause (ii), for any fiscal year for which the amounts appropriated for programs authorized by title II or part A, B, C, D, or E of title III (and available for allotment under this section) exceed the amounts so available for fiscal year 1985, no State shall receive less than one-half of one percent of the amount available for each such program for that fiscal year under this subsection. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

100 STAT. 761

Ante, p. 761.
Ante, p. 761.

"(ii) Due to the application of the provisions of clause (i), for any fiscal year, no State shall receive more than 150 percent of the payments made to the State for each program authorized by title II, or part A, B, C, D, or E of title III for the preceding fiscal year.

Virgin Islands, Guam, American Samoa, Northern Mariana Islands, Trust Territory of the Pacific Islands.

"(C) In the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the minimum allotment for all programs under the Act shall be $200,000.".

Approved July 8, 1986.

LEGISLATIVE HISTORY—H.R. 4841:

HOUSE REPORT No. 99-641 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 17, considered and passed House.
June 25, considered and passed Senate.

Public Law 99-371
99th Congress

An Act

To authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

Aug. 4, 1986
[S. 1874]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education of the Deaf Act of 1986".

Education of the Deaf Act of 1986.
20 USC 4301 note.

TITLE I—GALLAUDET UNIVERSITY

PART A—GALLAUDET UNIVERSITY GENERAL AUTHORITY

SEC. 101. CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY.

20 USC 4301.

(a) GALLAUDET UNIVERSITY.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

20 USC 691.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to deaf individuals and otherwise to further the education of the deaf.

SEC. 102. PROPERTY RIGHTS.

20 USC 4302.

(a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF REAL PROPERTY.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

Securities.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such

100 STAT. 782

use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

SEC. 103. BOARD OF TRUSTEES.

20 USC 4303.

(a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees, who on the effective date of this Act shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) Powers of the Board.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 403, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

Children and youth.

Part B—Kendall Demonstration Elementary School

20 USC 4311.

SEC. 111. AUTHORITY OF GALLAUDET UNIVERSITY.

(a) General Authority.—

(1) For the purpose of providing day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study and to provide an exemplary educational program to stimulate the

development of similar excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized to maintain and operate Kendall Demonstration Elementary School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

(2) The Kendall Demonstration Elementary School shall also—

(A) provide technical assistance and outreach throughout the Nation to train parents of deaf infants and children in specialized learning skills; and

(B) develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with nonhearing impaired students.

State and local governments.

(b) Responsibility for Compliance with Education of the Handicapped Act.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the Kendall Demonstration Elementary School, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

20 USC 1411.

Part C—Model Secondary School for the Deaf

Children and youth.

District of Columbia.

20 USC 4321.

SEC. 121. AUTHORITY OF GALLAUDET UNIVERSITY.

(a) General Authority.—For the purpose of providing day and residential facilities for secondary education for individuals who are deaf in order to prepare them for college and other advanced study, and to provide an exemplary secondary school program to stimulate the development of similarly excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 122, to maintain and operate a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

State and local governments.

100 STAT. 784

(b) Responsibility for Compliance with Education of the Handicapped Act.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the model secondary school, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

20 USC 1400.

20 USC 4322.

SEC. 122. AGREEMENT WITH GALLAUDET UNIVERSITY FOR THE MODEL SECONDARY SCHOOL.

District of Columbia.

(a) General Authority.—The Secretary is authorized to continue an agreement with Gallaudet University for the establishment and operation, including construction and equipment of a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) Provisions of Agreement.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the model secondary school will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

Reports.

(2) provide that the University will make an annual report to the Secretary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to excellence of architecture and design, works of art, and innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that the model secondary school will develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with nonhearing impaired students;

(5) include such other conditions as the Secretary considers necessary to carry out the purposes of this part, and

Wages.

(6) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the model secondary school will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) SUBMISSION OF REPORT.—The Secretary shall submit the annual report of the University (required under subsection (b)(3)) to the Congress with such comments and recommendations as the Secretary may deem appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

20 USC 4331.

SEC. 201. AUTHORITY.

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this title is authorized to operate and maintain a National Technical Institute for the Deaf.

100 STAT. 785

20 USC 4332.

SEC. 202. AGREEMENT FOR THE INSTITUTE.

(a) GENERAL AUTHORITY.—The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of the deaf, and members of the public familiar with the need for services provided by the Institute;

Reports.

(3) provide that the Board of Trustees or other governing body of the institution will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined

by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) LIMITATION.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

SEC. 301. COMMISSION ESTABLISHED.

20 USC 4341.

Children and youth.

(a) ESTABLISHMENT.—There is established a Commission on Education of the Deaf to make a study of the quality of infant and early childhood education programs and of elementary, secondary, postsecondary, adult, and continuing education furnished to deaf individuals.

(b) COMPOSITION.—(1) The Commission shall be composed of 12 members as follows:

(A) Three members shall be appointed by the President.

(B) One member shall be appointed by the Comptroller General of the United States.

(C) Four of the members shall be appointed by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives.

(D) Four of the members shall be appointed by the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(2)(A) Members of the Commission shall be appointed from among individuals who have broad experience and expertise in deafness, program evaluation, education, or rehabilitation, which experience and expertise are directly relevant to the issues to be studied by the Commission.

(B) The Chairperson shall be appointed jointly by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives, and the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(3) Members of the Commission may not be employed by or be a consultant to the National Technical Institute for the Deaf or Gallaudet University during their appointment as members of the Commission and may not have been so employed for a period of one year prior to appointment.

(4) Of the members appointed by the President under paragraph (1)(A), not less than 1 shall be deaf. Of the members appointed by the Speaker of the House of Representatives under paragraph (1)(C), not less than 2 shall be deaf and not more than 2 may be from the same political party. Of the members appointed by the President pro

tempore of the Senate under paragraph (1)(D), not less than 2 shall be deaf and not more than 2 may be from the same political party.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

20 USC 4342.

SEC. 302. DUTIES OF THE COMMISSION.

100 STAT. 787

(a) Study Described.—(1) The Commission shall make a study of—

(A) the degree to which appropriate postsecondary, adult, and continuing educational opportunities are available to deaf individuals;

(B) the advisability of expanding the number of federally supported postsecondary regional educational programs which serve the deaf;

Children and youth.

(C) the training and technical assistance needs of infant and early childhood education programs and elementary, secondary, postsecondary, adult, and continuing education programs which serve the deaf;

Children and youth.

20 USC 1411.

(D) the degree to which appropriate elementary and secondary educational opportunities are available to deaf students including (i) the effects of part B of the Education of the Handicapped Act on infant and early childhood education programs and elementary and secondary educational programs for the deaf and (ii) the role played by the model secondary school for the deaf and the Kendall Demonstration Elementary School;

(E) the role and impact of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute for the Deaf in education of the deaf;

20 USC 1451.

(F) the degree to which the purposes of part F of the Education of the Handicapped Act (relating to instructional media for the handicapped) are being carried out;

(G) the problems associated with illiteracy among deaf individuals;

Children and youth.

(H) any other issues which the Commission determines will improve the quality of infant and early education programs and elementary, secondary, postsecondary, adult, and continuing education provided to the deaf; and

(I) any other recommendations to improve quality or increase cost effectiveness of providing the education of the deaf.

(2) The study of each issue described in paragraph (1) shall include a description of the findings concerning each such issue together with recommendations for actions designed to address identified needs.

(b) Reports.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than 18 months after the date of enactment of this Act, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

(c) Termination.—The Commission shall cease to exist 90 days following the submission of its final report.

20 USC 4343.

SEC. 303. ADMINISTRATIVE PROVISIONS.

5 USC 5101.
5 USC 5331.
5 USC 5332.

(a) Personnel.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code. 100 STAT. 788

(b) **Hearings; Quorum.**—(1) The Commission or, with the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

State and local governments.

(c) **Consultation.**—In carrying out its duties under this Act, the Commission shall consult with Gallaudet University, the National Technical Institute for the Deaf, regional postsecondary education programs for the deaf, other programs and agencies serving or representing the interests of deaf people, Federal agencies, representatives of State and local governments, State and local educational agencies, and private organizations to the extent feasible.

(d) **Information; Statistics.**—(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office), information, suggestions, estimates, and statistics to carry out the provisions of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson.

Contracts.

(2) For the purpose of securing necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies.

(e) **Agency Cooperation.**—(1) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this title.

State and local governments.

(2) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

SEC. 304. COMPENSATION OF MEMBERS.

20 USC 4344.

(a) **United States Officer and Employee Members.**—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(b) **Public Members.**—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently. 100 STAT. 789

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

20 USC 4351.

As used in this Act—

(1) The term "Board of Trustees" means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 103.

Ante, p. 782.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "Institute" means the National Technical Institute for the Deaf.

(5) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree, (D) includes one or more professional or graduate schools, (E) is a public or nonprofit private institution, and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of clause (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(6) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(7) The term "Secretary" means the Secretary of Education.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Real property.
20 USC 4352.

SEC. 402. GIFTS.

(a) Gallaudet University.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(b) National Technical Institute for the Deaf.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

20 USC 4353.

SEC. 403. AUDIT.

(a) General Accounting Office Authority.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) Independent Audit.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of the Institute, respectively.

SEC. 404. REPORTS.

20 USC 4354.

(a) GALLAUDET UNIVERSITY.—Not later than October 15 of each year, the Board of Trustees of Gallaudet University shall prepare and submit an annual report to the Secretary on the condition of the University, including—

(1) the number of students of each description received and discharged during the preceding school year and the number remaining;

(2) the branches and type of training and education taught and progress made therein;

(3) a statement showing the receipts of said corporation and from what sources; and

(4) its expenditures and for what objects.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 202 shall prepare and transmit to the Secretary a report on the activities of the Institute, pursuant to the agreement under section 202(b)(3).

(c) MONITORING AND EVALUATION REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to section 405, together with such recommendations, including recommendations for legislation, as the Secretary deems necessary.

20 USC 3486.
Infra.

SEC. 405. MONITORING AND EVALUATION ACTIVITIES.

20 USC 4355.

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

SEC. 406. LIAISON FOR EDUCATIONAL PROGRAMS FOR THE DEAF.

20 USC 4356.

(a) DESIGNATION OF LIAISON.—Not later than 30 days after the date of enactment of this Act, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of the deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for the deaf under the Education of the Handicapped Act and the Rehabilitation Act of 1973.

100 STAT. 791

20 USC 1400;
29 USC 701 note.

(b) DUTIES OF LIAISON.—The individual serving as liaison for educational programs for the deaf shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions; and

(2) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) AUTHORITY OF SECRETARY.—Nothing in this section may be construed to affect the authority of the Secretary under this Act or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

SEC. 407. GALLAUDET UNIVERSITY FEDERAL ENDOWMENT PROGRAM.

20 USC 4357.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of Gallaudet University. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) Federal Payments.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the University).

(c) Investments.—

(1) The University, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

Banks and banking.
District of Columbia.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

(d) Withdrawals and Expenditures.—

(1) For a twenty-year period from the date of the enactment of this Act, the University may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) Gallaudet University may withdraw or expend endowment fund income for any expenses necessary to the operation of the University, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The University may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the University may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstance affecting the University.

(e) Recovery of Payments.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if Gallaudet University—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) Definitions.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by Gallaudet University for the purpose of generating income for the support of the University.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

SEC. 408. NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ENDOWMENT PROGRAM.

20 USC 4358.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of the National Technical Institute for the Deaf are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of the National Technical Institute for the Deaf. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the Institute).

(c) INVESTMENTS.—

(1) The Institute, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

Banks and banking.
District of Columba.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) For a twenty-year period from the date of the enactment of this Act, the Institute may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) The National Technical Institute for the Deaf may withdraw or expend endowment fund income for any expenses necessary to the operation of the Institute, including expenses of operations. and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The Institute may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the Institute may not withdraw or expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstances affecting the Institute.

(e) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the National Technical Institute for the Deaf—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) Definitions.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by the National Technical Institute for the Deaf for the purpose of generating income for the support of the Institute.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

100 STAT. 794

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

20 USC 4359.

SEC. 409. OVERSIGHT AND EFFECT OF AGREEMENTS.

(a) Oversight Activities.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) Construction of Agreements.—The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with the provisions of this Act.

SEC. 410. REPEALS.

(a) Gallaudet College.—The Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954, is repealed. 20 USC 691–691g.

(b) Kendall Demonstration Elementary School.—The Act entitled "An Act to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed. 20 USC 695–695c.

(c) Model Secondary School for the Deaf.—The Model Secondary School for the Deaf Act is repealed. 20 USC 693 note.

(d) National Technical Institute for the Deaf.—The National Technical Institute for the Deaf Act is repealed. 20 USC 681 note.

20 USC 4360.

SEC. 411. AUTHORIZATION OF APPROPRIATIONS.

(a) Gallaudet University.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of this Act, relating to—

(A) Gallaudet University,

(B) part B of title I, relating to Kendall Demonstration Elementary School, and

(C) part C of title I, relating to the model secondary school for the deaf.

(b) National Technical Institute for the Deaf.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of title II, relating to the National Technical Institute for the Deaf.

100 STAT. 795

(c) Commission on Education for the Deaf.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of title III, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs.

Approved August 4, 1986.

LEGISLATIVE HISTORY—S. 1874:

SENATE REPORTS: No. 99-290 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 6, considered and passed Senate.
June 26, considered and passed House, amended.
July 17, Senate concurred in House amendment.

Public Law 99-423
99th Congress

100 STAT. 963

An Act

To authorize the Smithsonian Institution to plan and construct facilities for certain science activities of the Institution, and for other purposes.

Sept. 30, 1986
[H. R. 1483]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Regents of the Smithsonian Institution is authorized to plan and construct facilities for the Smithsonian Astrophysical Observatory and the Smithsonian Tropical Research Institute.

Research and development.
20 USC 50 note.

Sec. 2. Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution:

(a) $4,500,000 for the Smithsonian Astrophysical Observatory; and

(b) $11,100,000 for the Smithsonian Tropical Research Institute.

Effective date.
Appropriation authorization.

Sec. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

Contracts.

Approved September 30, 1986.

LEGISLATIVE HISTORY—H.R. 1483:

SENATE REPORTS: No. 99-189 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Oct. 7, considered and passed House.
Vol. 132 (1986): June 24, considered and passed Senate, amended.
Sept. 18, House concurred in Senate amendments.

100 STAT. 1145

Public Law 99-457
99th Congress

An Act

Oct. 8, 1986
[S. 2294]

To amend the Education of the Handicapped Act to reauthorize the discretionary programs under that Act, to authorize an early intervention program under that Act for handicapped infants and toddlers and their families, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Education of the Handicapped Act Amendments of 1986.
Contracts.
Grants.
20 USC 1400 note.
20 USC 1400.

SECTION 1. SHORT TITLE; REFERENCE.

(a) Short Title.—This Act may be cited as the "Education of the Handicapped Act Amendments of 1986".

(b) Reference.—References in this Act to "the Act" are references to the Education of the Handicapped Act.

TITLE I—HANDICAPPED INFANTS AND TODDLERS

SEC. 101. ADDITION OF A NEW PART RELATING TO HANDICAPPED INFANTS AND TODDLERS.

(a) Amendment.—The Act is amended by inserting after the part added by section 316 the following new part:

"Part H—Handicapped Infants and Toddlers

"FINDINGS AND POLICY

20 USC 1471.

"Sec. 671. (a) Findings.—The Congress finds that there is an urgent and substantial need—

"(1) to enhance the development of handicapped infants and toddlers and to minimize their potential for developmental delay,

"(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after handicapped infants and toddlers reach school age,

"(3) to minimize the likelihood of institutionalization of handicapped individuals and maximize the potential for their independent living in society, and

"(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps.

State and local governments.

"(b) Policy.—It is therefore the policy of the United States to provide financial assistance to States—

"(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for handicapped infants and toddlers and their families,

"(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

"(3) to enhance its capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to handicapped infants, toddlers, and their families.

100 STAT. 1146

"DEFINITIONS

20 USC 1472.

"Sec. 672. As used in this part—

"(1) The term 'handicapped infants and toddlers' means individuals from birth to age 2, inclusive, who need early intervention services because they—

"(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: Cognitive development, physical development, language and speech development, psychosocial development, or self-help skills, or

"(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay. Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

"(2) 'Early intervention services' are developmental services which—

"(A) are provided under public supervision,

"(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

"(C) are designed to meet a handicapped infant's or toddler's developmental needs in any one or more of the following areas:

"(i) physical development,

"(ii) cognitive development,

"(iii) language and speech development,

"(iv) psycho-social development, or

"(v) self-help skills,

"(D) meet the standards of the State, including the requirements of this part,

"(E) include—

"(i) family training, counseling, and home visits,

"(ii) special instruction,

"(iii) speech pathology and audiology,

"(iv) occupational therapy,

"(v) physical therapy,

"(vi) psychological services,

"(vii) case management services,

"(viii) medical services only for diagnostic or evaluation purposes,

"(ix) early identification, screening, and assessment services, and

"(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

"(F) are provided by qualified personnel, including—

"(i) special educators,

"(ii) speech and language pathologists and audiologists,

"(iii) occupational therapists,

"(iv) physical therapists,

"(v) psychologists,

"(vi) social workers,

"(vii) nurses, and

"(viii) nutritionists, and

"(G) are provided in conformity with an individualized family service plan adopted in accordance with section 677.

"(3) The term 'developmental delay' has the meaning given such term by a State under section 676(b)(1).

"(4) The term 'Council' means the State Interagency Coordinating Council established under section 682.

"GENERAL AUTHORITY

"SEC. 673. The Secretary shall, in accordance with this part, make grants to States (from their allocations under section 684) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families.

State and local governments.
Grants.
20 USC 1473.

"GENERAL ELIGIBILITY

State and local governments.
Grants.
20 USC 1474.

"SEC. 674. In order to be eligible for a grant under section 673 for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 678) that the State has established a State Interagency Coordinating Council which meets the requirements of section 682.

"CONTINUING ELIGIBILITY

State and local governments.
Grants.
20 USC 1475.

"SEC. 675. (a) FIRST TWO YEARS.—In order to be eligible for a grant under section 673 for the first or second year of a State's participation under this part, a State shall include in its application under section 678 for that year assurances that funds received under section 673 shall be used to assist the State to plan, develop, and implement the statewide system required by section 676.

"(b) THIRD AND FOURTH YEAR.—(1) In order to be eligible for a grant under section 673 for the third or fourth year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that—

"(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 676 or obtained a waiver from the Secretary under paragraph (2),

"(B) funds shall be used to plan, develop, and implement the statewide system required by section 676, and

"(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 673, except that with respect to section 676(b)(4), a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

"(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 673 during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

"(A) that the State has made a good faith effort to adopt such a policy,

100 STAT. 1148

"(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

"(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

"(c) FIFTH AND SUCCEEDING YEARS.—In order to be eligible for a grant under section 673 for a fifth and any succeeding year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 676 and a description of services to be provided under section 676(b)(2).

"(d) EXCEPTION.—Notwithstanding subsections (a) and (b), a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to handicapped children from birth through age 2, inclusive, shall be eligible for a grant under section 673 for the first through fourth years of a State's participation under this part.

"REQUIREMENTS FOR STATEWIDE SYSTEM

20 USC 1476.

"SEC. 676. (a) IN GENERAL.—A statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all handicapped infants and toddlers and their families shall include the minimum components under subsection (b).

"(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

"(1) a definition of the term 'developmentally delayed' that will be used by the State in carrying out programs under this part,

"(2) timetables for ensuring that appropriate early intervention services will be available to all handicapped infants and toddlers in the State before the beginning of the fifth year of a State's participation under this part,

"(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each handicapped infant and toddler in the State and the needs of the families to appropriately assist in the development of the handicapped infant or toddler,

"(4) for each handicapped infant and toddler in the State, an individualized family service plan in accordance with section 677, including case management services in accordance with such service plan,

"(5) a comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for the participation by primary referral sources,

Public information.

"(6) a public awareness program focusing on early identification of handicapped infants and toddlers,

"(7) a central directory which includes early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State,

"(8) a comprehensive system of personnel development,

"(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

"(A) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 673 to ensure compliance with this part,

100 STAT. 1149

"(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

"(C) the assignment of financial responsibility to the appropriate agency,

"(D) the development of procedures to ensure that services are provided to handicapped infants and toddlers and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

"(E) the resolution of intra- and interagency disputes, and

"(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

"(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements,

"(11) a procedure for securing timely reimbursement of funds used under this part in accordance with section 681(a),

"(12) procedural safeguards with respect to programs under this part as required by section 680, and

"(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

"(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

"(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

"(14) a system for compiling data on the numbers of handicapped infants and toddlers and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

"INDIVIDUALIZED FAMILY SERVICE PLAN

20 USC 1477. "SEC. 677. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—Each handicapped infant or toddler and the infant or toddler's family shall receive—

"(1) a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and

"(2) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

100 STAT. 1150

"(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6 month-intervals (or more often where appropriate based on infant and toddler and family needs).

"(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

"(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

"(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, language and speech development, psycho-social development, and self-help skills, based on acceptable objective criteria,

"(2) a statement of the family's strengths and needs relating to enhancing the development of the family's handicapped infant or toddler,

"(3) a statement of the major outcomes expected to be achieved for the infant and toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes are being made and whether modifications or revisions of the outcomes or services are necessary,

"(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

"(5) the projected dates for initiation of services and the anticipated duration of such services,

"(6) the name of the case manager from the profession most immediately relevant to the infant's and toddler's or family's needs who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

20 USC 1411. "(7) the steps to be taken supporting the transition of the handicapped toddler to services provided under part B to the extent such services are considered appropriate.

"STATE APPLICATION AND ASSURANCES

Grants.
Regulations.
20 USC 1478.

"SEC. 678. (a) APPLICATION.—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

"(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 673,

"(2) information demonstrating eligibility of the State under section 674,

"(3) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675, and

"(4)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses,

"(5) a description of the uses for which funds will be expended in accordance with this part and for the fifth and succeeding fiscal years a description of the services to be provided,

"(6) a description of the procedure used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State, and

"(7) such other information and assurances as the Secretary may reasonably require by regulation.

"(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

Regulations.

"(1) assure that funds paid to the State under section 673 will be expended in accordance with this part,

"(2) contain assurances that the State will comply with the requirements of section 681,

"(3) provide satisfactory assurance that the control of funds provided under section 673, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property,

"(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part,

"(5) provide satisfactory assurance that Federal funds made available under section 673 (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for handicapped infants and toddlers and their families and in no case to supplant such State and local funds,

"(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State, and

"(7) such other information and assurances as the Secretary may reasonably require by regulation.

"(c) APPROVAL OF APPLICATION AND ASSURANCES REQUIRED.—No State may receive a grant under section 673 unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

"USES OF FUNDS

State and local governments. 20 USC 1479.

"SEC. 679. In addition to using funds provided under section 673 to plan, develop, and implement the statewide system required by section 676, a State may use such funds—

100 STAT. 1152

"(1) for direct services for handicapped infants and toddlers that are not otherwise provided from other public or private sources, and

"(2) to expand and improve on services for handicapped infants and toddlers that are otherwise available.

"PROCEDURAL SAFEGUARDS

State and local governments. 20 USC 1480.

"SEC. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

"(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

Confidentiality.

"(2) The right to confidentiality of personally identifiable information.

"(3) The opportunity for parents and a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

"(4) Procedures to protect the rights of the handicapped infant and toddlers whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents or guardian.

"(5) Written prior notice to the parents or guardian of the handicapped infant or toddler whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the handicapped infant or toddler.

"(6) Procedures designed to assure that the notice required by paragraph (5) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

"(7) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or if applying for initial services shall receive the services not in dispute.

"PAYOR OF LAST RESORT

20 USC 1481.

"SEC. 681. (a) NONSUBSTITUTION.—Funds provided under section 673 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this part, except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 673 may be used to

100 STAT. 1153

pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

"(b) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for handicapped infants and toddlers) within the State. 42 USC 701. 42 USC 1396.

"STATE INTERAGENCY COORDINATING COUNCIL

"SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of 15 members. 20 USC 1482.

"(2) The Council and the chairperson of the Council shall be appointed by the Governor. In making appointments to the Council, the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

"(b) COMPOSITION.—The Council shall be composed of—

"(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

"(2) at least 3 public or private providers of early intervention services,

"(3) at least one representative from the State legislature,

"(4) at least one person involved in personnel preparation, and

"(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families and others selected by the Governor.

"(c) MEETINGS.—The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part to hire staff, and obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

"(2) advise and assist the lead agency in the preparation of applications and amendments thereto, and

"(3) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for handicapped infants and toddlers and their families operated within the State. Report.

100 STAT. 1154

"(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 673, such State shall establish a council that complies in full with this section.

"FEDERAL ADMINISTRATION

State and local governments.
Education.
20 USC 1483.
20 USC 1416, 1417, 1420.

"SEC. 683. Sections 616, 617, and 620 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

"(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 676(b)(9),

"(2) any reference to the education of handicapped children and the education of all handicapped children and the provision of free public education to all handicapped children shall be deemed to be a reference to the provision of services to handicapped infants and toddlers in accordance with this part, and

"(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this part.

"ALLOCATION OF FUNDS

Guam.
American Samoa.
Virgin Islands.
Republic of the Marshall Islands.
Federated States of Micronesia.
Republic of Palau.
Commonwealth of the Northern Mariana Islands.
20 USC 1484.

"SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

"(b)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to handicapped infants and toddlers and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

20 USC 1416.

"(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 678 and which is approved by the Secretary. Section 616 shall apply to any such application.

"(c)(1) For each of the fiscal years 1987 through 1991 from the funds remaining after the reservation and payments under subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder.

"(2) For the purpose of paragraph (1)—

"(A) the terms 'infants' and 'toddlers' mean children from birth to age 2, inclusive, and

"(B) the term 'State' does not include the jurisdictions described in subsection (a).

"(d) If any State elects not to receive its allotment under subsection (c)(1), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1485.

"SEC. 685. There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.".

20 USC 1485 note.

(b) STUDY OF SERVICES; COORDINATION OF ACTIONS.—(1) The Secretary of Education and the Secretary of Health and Human Services shall conduct a joint study of Federal funding sources and services for early intervention programs currently available and shall jointly act to facilitate interagency coordination of Federal resources for such programs and to ensure that funding available to handicapped infants, toddlers, children, and youth from Federal programs, other than programs under the Education of the Handicapped Act, is not being withdrawn or reduced.

20 USC 1400.
Report.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary of Education and the Secretary of Health and Human Services shall submit a joint report to the Congress describing the findings of the study conducted under paragraph (1) and describing the joint action taken under that paragraph.

TITLE II—HANDICAPPED CHILDREN AGED 3 TO 5

SEC. 201. PRE-SCHOOL GRANTS.

(a) AMENDMENT.—Section 619 of the Act (20 U.S.C. 1419) is amended to read as follows:

"PRE-SCHOOL GRANTS

State and local governments.

"SEC. 619. (a)(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which—

"(A) has met the eligibility requirements of section 612, 20 USC 1412.

"(B) has a State plan approved under section 613, and 20 USC 1413.

"(C) provides special education and related services to handicapped children aged three to five, inclusive.

"(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

"(i) $300 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), or 20 USC 1411.

"(ii) if the amount appropriated under subsection (e) exceeds the product of $300 and the total number of handicapped children aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3)—

"(I) $300 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), plus

100 STAT. 1156

"(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of handicapped children aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated number of such children in such State.

"(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $400 instead of $300.

"(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $500 instead of $300.

"(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed $1,000 per handicapped child aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3). 20 USC 1411.

"(E) If the actual number of additional children served in a fiscal year differs from the estimate made under clause (ii)(II) of the applicable subparagraph, subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

"(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed $3,800 per estimated handicapped child aged three to five, inclusive, who will be receiving or handicapped child, age three to five, inclusive, who is receiving special education and related services in such State.

"(ii) If the amount appropriated under subsection (e) for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

"(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

Post, p. 1158.

"(A) has met the eligibility requirements of section 612, and

Post, pp. 1159, 1174.

"(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all handicapped children aged three to five, inclusive.

"(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if—

"(A) the aggregate amount that was appropriated under subsection (e) for fiscal years 1987, 1988, and 1989 was less than $656,000,000, and

"(B) the amount appropriated for fiscal year 1990 under subsection (e) is less than $306,000,000,

the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) for fiscal year 1990.

100 STAT. 1157

"(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed $1,000 for each handicapped child in such State aged three to five, inclusive.

"(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c)(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall—

"(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only handicapped children aged three to five, inclusive, shall be considered,

Post, p. 1161.

"(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for handicapped children, and

"(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

"(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall—

"(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only handicapped children aged three to five, inclusive, shall be considered,

"(B) use not more than 20 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for handicapped children, and

"(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

"(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

"(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) or subsection (a)(2)(A)(ii)(I), as the case may be, as the number of handicapped children aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and 20 USC 1411.

"(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II), an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(ii)(II) as the estimated number of additional handicapped children aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to five, inclusive, who will be receiving special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

"(d) If the sums appropriated under subsection (e) for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) are not sufficient to pay in full the maximum amounts which all States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II). If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.

"(e) For grants under subsections (a)(1) and (b)(1) there are authorized to be appropriated such sums as may be necessary.".

(b) CONFORMING AMENDMENTS.—

(1) Section 611(a)(1)(A) of the Act (20 U.S.C. 1411(a)(1)(A)) is amended to read as follows:

"(A) the number of handicapped children aged 3–5, inclusive, in a State who are receiving special education and related services as determined under paragraph (3) if the State is eligible for a grant under section 619 and the number of handicapped children aged 6–21, inclusive, in a State who are receiving special education and related services as so determined;". 20 USC 1419.

(2)(A) Section 611(g)(1) of the Act is amended by striking out "this part" each place it occurs and inserting in lieu thereof "subsection (a)".

(B) Section 611(g)(1) of the Act is amended by inserting "under subsection (h)" after "appropriated".

(C) Section 611(g)(2) of the Act is amended by striking out "this part" the first place it occurs and inserting in lieu thereof "this section".

(3) Section 611 of the Act is amended by adding at the end the following:

"(h) For grants under subsection (a) there are authorized to be appropriated such sums as may be necessary.".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to the school year 1987–1988. 20 USC 1419 note.

SEC. 202. ELIGIBILITY FOR FINANCIAL ASSISTANCE.

Part A of the Act is amended by adding at the end the following: 20 USC 1400.

"ELIGIBILITY FOR FINANCIAL ASSISTANCE

State and local governments. 20 USC 1408. *Ante*, p. 1155. 20 USC 1421-1454; *post*, p. 1172.

"SEC. 609. Effective for fiscal years for which the Secretary may make grants under section 619(b)(1), no State or local educational agency or intermediate educational unit or other public institution or agency may receive a grant under parts C through G which relate exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 619(b)(1).".

SEC. 203. SHARING OF COSTS OF FREE APPROPRIATE PUBLIC EDUCATION.

100 STAT. 1159

(a) ELIGIBILITY FOR SECTION 611 GRANTS.—Section 612(6) of the Act (20 U.S.C. 1412(6)) is amended by adding at the end the following: "This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided handicapped children in the State.".

(b) STATE PLANS.—

(1) Section 613(a)(9) of the Act (20 U.S.C. 1413(a)(9)) is amended to read as follows:

"(9) provide satisfactory assurance that Federal funds made available under this part (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to handicapped children under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State;".

(2) Section 613(a) of the Act is amended by striking out "and" at the end of paragraph (11), by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon, and by adding at the end the following:

"(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to (A) define the financial responsibility of each agency for providing handicapped children and youth with free appropriate public education, and (B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement.".

(3) Section 613 of the Act is amended by adding at the end the following:

42 USC 701, 1396.

"(e) This Act shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for handicapped children within the State; and".

TITLE III—DISCRETIONARY PROGRAMS

SEC. 301. REGIONAL RESOURCE CENTERS.

Section 621 of the Act (20 U.S.C. 1421) is amended to read as follows:

"REGIONAL RESOURCE AND FEDERAL CENTERS

Grants. Contracts. State and local governments.

"SEC. 621. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate State agencies providing early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center and the findings of the Secretary in monitoring reports prepared by the Secretary under section 617 of the Act. Each regional resource center established or operated under this section shall—

20 USC 1417.

"(1) assist in identifying and solving persistent problems in providing quality special education and related services for handicapped children and youth and early intervention services to handicapped infants and toddlers and their families,

"(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education and related services to handicapped children and youth and their families and early intervention services to handicapped infants and toddlers and their families,

"(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant projects conducted by the Department of Education,

"(4) assist in the improvement of information dissemination to and training activities for professionals and parents of handicapped infants, toddlers, children, and youth, and

"(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G.

20 USC 1422–1454; *post*, p. 1172.

"(b) In determining whether to approve an application for a project under subsection (a), the Secretary shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

Report.

"(c) Each regional resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 618.

20 USC 1418.

"(d) The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities.

"(e) Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d), not less than the amount made available for this section in the previous fiscal year shall be made available for regional resource centers under subsection (a) and in no case shall more than $500,000 be made available for the center under subsection (d).".

SEC. 302. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.

20 USC 1422.

Section 622 is amended by adding at the end thereof the following new subsections:

Grants.
Contracts.

"(e) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for severely handicapped children and youth, including deaf-blind children and youth.

Grants.
Contracts.
Post, p. 1162.

"(f) The Secretary may make grants to, or enter into contracts or cooperative agreements with, the entities under section 624(a) for the purposes in such section.".

SEC. 303. EARLY EDUCATION FOR HANDICAPPED CHILDREN.

Section 623 of the Act (20 U.S.C. 1423) is amended to read as follows:

"EARLY EDUCATION FOR HANDICAPPED CHILDREN

Contracts. Grants. State and local governments.

"SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, speech, language development, and self-help skills of such children, (2) encourage the participation of the parents of such children in the development and operation of any such program, and (3) acquaint the community to be served by any such program with the problems and potentialities of such children, (4) offer training about exemplary models and practices to State and local personnel who provide services to handicapped children from birth through eight, and (5) support the adaption of exemplary models and practices in States and local communities.

"(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

Urban areas. Rural areas.

"(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

"(4)(A) Except as provided in subparagraph (B), no arrangement under paragraph (1) shall provide for the payment of more than 90 percent of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

Indians.

"(B) The Secretary may waive the requirement of subparagraph (A) in the case of an arrangement entered into under paragraph (1) with governing bodies of Indian tribes located on Federal or State reservations and with consortia of such bodies.

Contracts. Grants. State and local governments.

"(b) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to handicapped children.

"(c) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for handicapped children and their families.

100 STAT. 1162

Grants. Contracts.

"(d) The Secretary may make grants to, enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of handicapped children and for training of personnel for programs specifically designed for handicapped children.

Federal Register, publication.

"(e) At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (b) and (c), the Secretary shall publish in the Federal Register a notice of intent to accept application for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

"(f) For purposes of this section the term 'handicapped children' includes children from birth through eight years of age.".

SEC. 304. PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.

Section 624 of the Act (20 U.S.C. 1424) is amended to read as follows:

"PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN

Grants.
Contracts.

"Sec. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, such organizations or institutions, as are determined by the Secretary to be appropriate, to address the needs of severely handicapped children and youth, for—

"(1) research to identify and meet the full range of special needs of such handicapped children and youth,

"(2) the development or demonstration of new, or improvements in, existing, methods, approaches, or techniques which would contribute to the adjustment and education of such handicapped children and youth,

"(3) training of personnel for programs specifically designed for such children, and

"(4) dissemination of materials and information about practices found effective in working with such children and youth.

"(b) In making grants and contracts under subsection (a), the Secretary shall ensure that the activities funded under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

Urban areas.
Rural areas.

"(c) To the extent feasible, programs, authorized by subsection (a) shall be geographically dispersed throughout the nation in urban and rural areas.".

SEC. 305. POSTSECONDARY EDUCATION PROGRAMS.

Section 625 is amended to read as follows:

20 USC 1424a.

"POSTSECONDARY EDUCATION

Grants.
Contracts.

"Sec. 625. (a)(1) The Secretary may make grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

100 STAT. 11

"(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for individuals with handicapping conditions other than deafness—

"(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals, and

"(B) for programs that coordinate, facilitate, and encourage education of handicapped individuals with their nonhandicapped peers.

"(3) Persons operating programs for handicapped persons under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 633(b).

20 USC 1433.

Federal Register, publication.

"(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept application for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

"(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispensed throughout the nation in urban and rural areas.

"(6) Of the sums made available for programs under paragraph (1), not less than $2,000,000 shall first be available for the 4 regional centers for the deaf.

"(b) For the purposes of subsection (a) the term 'handicapped individuals' means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired individuals, or individuals with specific learning disabilities who by reason thereof require special education and related services.".

SEC. 306. SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH.

20 USC 1425.

Section 626 of the Act is amended to read as follows:

"SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH

Grants. Contracts. State and local governments.

"SEC. 626. (a) The Secretary may make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (Public Law 97-300)) to—

29 USC 1501 note.

"(1) strengthen and coordinate special education and related services for handicapped youth currently in school or who recently left school to assist them in the transition to postsecondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services,

"(2) stimulate the improvement and development of programs for secondary special education, and

100 STAT. 1164

"(3) stimulate the improvement of the vocational and life skills of handicapped students to enable them to be better prepared for transition to adult life and services.

Urban areas. Rural areas.

To the extent feasible, such programs shall be geographically dispersed through the Nation in urban and rural areas.

"(b) Projects assisted under subsection (a) may include—

"(1) developing strategies and techniques for transition to independent living, vocational training, vocational rehabilitation, postsecondary education, and competitive employment (including supported employment) for handicapped youth,

"(2) establishing demonstration models for services, programs, and individualized education programs, which emphasize vocational training, transitional services, and placement for handicapped youth,

"(3) conducting demographic studies which provide information on the numbers, age levels, types of handicapping conditions, and services required for handicapped youth in need of transitional programs,

"(4) specially designed vocational programs to increase the potential for competitive employment for handicapped youth,

"(5) research and development projects for exemplary service delivery models and the replication and dissemination of successful models,

"(6) initiating cooperative models between educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and employers, which facilitate the planning and developing of transitional services for handicapped youth to postsecondary education, vocational training, employment, continuing education, and adult services,

"(7) developing appropriate procedures for evaluating vocational training, placement, and transitional services for handicapped youth, "(8) conducting studies which provide information on the numbers, age levels, types of handicapping conditions and reasons why handicapped youth drop out of school,

"(9) developing special education curriculum and instructional techniques that will improve handicapped students' acquisition of the skills necessary for transition to adult life and services, and

"(10) specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation.

"(c) For purposes of paragraphs (1) and (2) of subsection (b), if an applicant is not an educational agency, such applicant shall coordinate with the State educational agency.

"(d) Applications for assistance under subsection (a) other than for the purpose of conducting studies or evaluations shall—

"(1) describe the procedures to be used for disseminating relevant findings and data to regional resource centers, clearinghouses, and other interested persons, agencies, or organizations,

"(2) describe the procedures that will be used for coordinating services among agencies for which handicapped youth are or will be eligible, and

"(3) to the extent appropriate, provide for the direct participation of handicapped students and the parents of handicapped students in the planning, development, and implementation of such projects.

Grants.
Contracts.

"(e) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, such organizations or institutions as are determined by the Secretary to be appropriate for the development or demonstration of new or improvements in existing methods, approaches, or techniques which will contribute to the adjustment and education of handicapped children and youth and the dissemination of materials and information concerning practices found effective in working with such children and youth.

"(f) The Secretary, as appropriate, shall coordinate programs described under subsection (a) with projects developed under section 311 of the Rehabilitation Act of 1973.". 29 USC 777a.

SEC. 307. AUTHORIZATION.

Section 628 is amended to read as follows: 20 USC 1427.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 628. (a) There are authorized to be appropriated to carry out section 621, $6,700,000 for fiscal year 1987, $7,100,000 for fiscal year 1988, and $7,500,000 for fiscal year 1989.

"(b) There are authorized to be appropriated to carry out section 622, $15,900,000 for fiscal year 1987, $16,800,000 for fiscal year 1988, and $17,800,000 for fiscal year 1989.

"(c) There are authorized to be appropriated to carry out section 623, $24,470,000 for fiscal year 1987, $25,870,000 for fiscal year 1988, and $27,410,000 for fiscal year 1989.

"(d) There are authorized to be appropriated to carry out section 624, $5,300,000 for fiscal year 1987, $5,600,000 for fiscal year 1988, and $5,900,000 for fiscal year 1989.

"(e) There are authorized to be appropriated to carry out section 625, $5,900,000 for fiscal year 1987, $6,200,000 for fiscal year 1988, and $6,600,000 for fiscal year 1989.

"(f) There are authorized to be appropriated to carry out section 626, $7,300,000 for fiscal year 1987, $7,700,000 for fiscal year 1988, and $8,100,000 for fiscal year 1989.".

SEC. 308. GRANTS FOR PERSONNEL TRAINING.

Section 631 of the Act (20 U.S.C. 1431) is amended to read as follows:

"GRANTS FOR PERSONNEL TRAINING

"SEC. 631. (a)(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including the university-affiliated facilities program under the Rehabilitation Act of 1973 and satellite network of the developmental disabilities program) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education and early intervention, including— 29 USC 701 note.

"(A) special education teaching, including speech-language pathology and audiology, and adaptive physical education,

"(B) related services to handicapped children and youth in educational settings,

"(C) special education supervision and administration,

100 STAT. 1166

"(D) special education research, and

"(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for handicapped children.

State and local governments.

"(2)(A) In making grants under paragraph (1), the Secretary shall base the determination of such grants on information relating to the present and projected need for the personnel to be trained based on identified State, regional, or national shortages, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

"(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards.

Fellowships.

"(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

"(4) The Secretary in carrying out paragraph (1) may reserve a sum not to exceed 5 percent of the amount available for paragraph (1) in each fiscal year for contracts to prepare personnel in areas where shortages exist when a response to that need has not been adequately addressed by the grant process.

"(b) The Secretary may make grants to institutions of higher education and other appropriate nonprofit agencies to conduct special projects to develop and demonstrate new approaches (including the application of new technology) for the preservice training purposes set forth in subsection (a), for regular educators, for the training of teachers to work in community and school settings with handicapped secondary school students, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children and personnel providing early intervention services.

"(c)(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of handicapped children and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of handicapped children. Such grants shall be designed to meet the unique training and information needs of parents of handicapped children living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

"(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

"(A) be governed by a board of directors on which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth, or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee on which a majority of the members are parents of handicapped children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under paragraph (1),

"(B) serve the parents of children with the full range of handicapping conditions under such grant program, and

"(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1).

"(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under paragraph (1) shall meet at least once in each calendar quarter to review the parent training and information activities for which the grant is made, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under paragraph (1) for a fiscal year, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

Urban areas.
Rural areas.
State and local governments.

"(4) The Secretary shall ensure that grants under paragraph (1) will—

"(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas, and

"(B) be targeted to parents of handicapped children in both urban and rural areas or on a State or regional basis.

"(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

"(A) better understand the nature and needs of the handicapping conditions of children,

"(B) provide followup support for handicapped children's educational programs,

"(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals,

"(D) participate in educational decisionmaking processes including the development of a handicapped child's individualized educational program,

"(E) obtain information about the programs, services, and resources available to handicapped children and the degree to which the programs, services, and resources are appropriate, and

"(F) understand the provisions for the education of handicapped children as specified under part B of this Act.

20 USC 1411.

State and local governments.

"(6) Parent training and information programs may, at a grant recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

"(7) Each private nonprofit organization operating a program receiving a grant under paragraph (1) shall consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the program.

"(8) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.".

100 STAT. 1168

SEC. 309. GRANTS FOR STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.

Section 632 of the Act (20 U.S.C. 1432) is amended to read as follows:

"GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

"SEC. 632. The Secretary shall make grants to each State educational agency and may make grants to institutions of higher education to assist in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613.".

Ante, p. 1159; *post*, p. 1174.

SEC. 310. CLEARINGHOUSES.

State and local governments.

(a) IN GENERAL.—Subsection (a) of section 633 of the Act (20 U.S.C. 1433) is amended by striking out "to achieve" and all that follows in that subsection and inserting in lieu thereof the following: "to disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties concerning—

"(1) programs relating to the education of the handicapped under this Act and under other Federal laws, and

"(2) participation in such programs, including referral of individuals to appropriate national, State, and local agencies and organizations for further assistance.".

(b) ADDITIONAL CLEARINGHOUSE.—Section 633 of the Act is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

Grants. Contracts.

"(c) The Secretary shall make a grant or enter into a contract for a national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of handicapped children and youth through the following:

"(1) Collection and dissemination of information on current and future national, regional, and State needs for special education and related services personnel.

"(2) Dissemination to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

"(3) Identification of training programs available around the country.

"(4) Establishment of a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

"(5) Technical assistance to institutions seeking to meet State and professionally recognized standards.".

(c) TECHNICAL AMENDMENT.—The heading for section 633 of the Act is amended to read as follows:

"CLEARINGHOUSES".

100 STAT. 1169

SEC. 311. AUTHORIZATION.

Section 635 of the Act (20 U.S.C. 1435) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 635. (a) There are authorized to be appropriated to carry out this part (other than section 633) $70,400,000 for fiscal year 1987, $74,500,000 for fiscal year 1988, and $79,000,000 for fiscal year 1989. There are authorized to be appropriated to carry out section 633,

$1,200,000 for fiscal year 1987, $1,900,000 for fiscal year 1988, and $2,000,000 for fiscal year 1989.

"(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in subparagraphs (A) through (E) of section 631(a)(1).

"(c) Of the funds appropriated under subsection (a) for any fiscal year, the Secretary shall reserve 10 percent for activities under section 631(c).".

SEC. 312. RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN.

Section 641 of the Act (20 U.S.C. 1441) is amended to read as follows:

"RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

Grants.
Contracts.

"Sec. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations for research and related activities to assist special education personnel, related services personnel, early intervention personnel, and other appropriate persons, including parents, in improving the special education and related services and early intervention services for handicapped infants, toddlers, children, and youth, and to conduct research, surveys, or demonstrations relating to the provision of services to handicapped infants, toddlers, children, and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions, and teaching, learning, and education-related developmental practices and services for handicapped infants, toddlers, children and youth. Research and related activities assisted under this section shall include the following:

"(1) The development of new and improved techniques and devices for teaching handicapped infants, toddlers, children and youth.

"(2) The development of curricula which meet the unique educational and developmental needs of handicapped infants, toddlers, children and youth.

"(3) The application of new technologies and knowledge for the purpose of improving the instruction of handicapped infants, toddlers, children and youth.

"(4) The development of program models and exemplary practices in areas of special education and early intervention.

100 STAT. 1170

"(5) The dissemination of information on research and related activities conducted under this part to regional resource centers and interested individuals and organizations.

"(6) The development of instruments, including tests, inventories, and scales for measuring progress of handicapped infants, toddlers, children and youth across a number of developmental domains.

"(b) In carrying out subsection (a), the Secretary shall consider the special education or early intervention experience of applicants under such subsection.

Federal Register, publication.

"(c) The Secretary shall publish proposed research priorities in the Federal Register every 2 years, not later than July 1, and shall allow a period of 60 days for public comments and suggestions. After analyzing and considering the public comments, the Secretary shall publish final research priorities in the Federal Register not later than 30 days after the close of the comment period.

Reports.

Post, p. 1174.

"(d) The Secretary shall provide an index (including the title of each research project and the name and address of the researching organization) of all research projects conducted in the prior fiscal year in the annual report described under section 618. The Secretary shall make reports of research projects available to the education community at large and to other interested parties.

"(e) The Secretary shall coordinate the research priorities established under subsection (c) with research priorities established by the National Institute of Handicapped Research and shall provide information concerning research priorities established under such subsection to the National Council on the Handicapped, and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.".

SEC. 313. PANELS AND EXPERTS.

Section 643 of the Act (20 U.S.C. 1443) is amended to read as follows:

"PANELS OF EXPERTS

20 USC 1421-1454; *post*, p. 1172.

"SEC. 643. (a) The Secretary shall convene, in accordance with subsection (b), panels of experts who are competent to evaluate proposals for projects under parts C through G. The panels shall be composed of—

"(1) individuals from the field of special education for the handicapped and other relevant disciplines who have significant expertise and experience in the content areas and age levels addressed in the proposals, and

"(2) handicapped individuals and parents of handicapped individuals when appropriate.

"(b)(1) The Secretary shall convene panels under subsection (a) for any application which includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications which include funding requests that are less than such amount.

"(2) Such panels shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department and shall be provided consultant fees at such a rate.

100 STAT. 1171

20 USC 1421-1454; *post*, p. 1172.

"(c) The Secretary may use funds available under parts C through G to pay expenses and fees of non-Federal members under subsection (b).".

SEC. 314. AUTHORIZATION.

Section 644 of the Act (20 U.S.C. 1444) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 644. For purposes of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1987, $19,000,000 for fiscal year 1988, and $20,100,000 for fiscal year 1989.".

SEC. 315. CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED PERSONS.

(a) ILLITERACY.—Subsection (a) of section 652 of the Act (20 U.S.C. 1452) is amended—

(1) by striking out "in accordance with regulations" and inserting in lieu thereof ", including for the purpose of addressing problems of illiteracy among the handicapped",

(2) by inserting after "available" the following: ", in accordance with regulations,".

(b) AUTHORIZED USES.—(1) Subsection (b)(4) of section 652 of the Act is amended by inserting after "handicapped" the following: ", public libraries,".

(2) Subsection (b)(7) is amended by striking the period and inserting in lieu thereof "; and", and by adding the following:

"(8) provide by grant or contract for educational media and materials for the deaf.".

(c) NATIONAL THEATRE OF THE DEAF.—Section 652 of the Act is amended by adding at the end the following:

"(c) The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. for the purpose of providing theatrical experiences to—

Grants.
Contracts.

"(1) enrich the lives of deaf children and adults,

"(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf people, and

"(3) promote the integration of hearing and deaf people through shared cultural experiences.".

SEC. 316. AUTHORIZATION.

Section 653 of the Act (20 U.S.C. 1453) is repealed and section 654 of the Act (20 U.S.C. 1454) is redesignated as section 653 and amended to read as follows:

"AUTHORIZATION

"SEC. 653. For the purposes of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1987, $15,750,000 for fiscal year 1988, and $16,540,000 for fiscal year 1989.".

20 USC 1454.

SEC. 317. TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED.

The Act is amended by adding after part F the following:

20 USC 1451.

"PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED

100 STAT. 1172

"FINANCIAL ASSISTANCE

SEC. 661. The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of handicapped students and the provision of early intervention to handicapped infants and toddlers. In carrying out this subsection, the Secretary may fund projects or centers for the purposes of—

Contracts.
20 USC 1461.

"(1) determining how technology, media, and materials are being used in the education of the handicapped and how they can be used more effectively,

"(2) designing and adapting new technology, media, and materials to improve the education of handicapped students,

"(3) assisting the public and private sectors in the development and marketing of new technology, media, and materials for the education of the handicapped, and

"(4) disseminating information on the availability and use of new technology, media, and materials for the education of the handicapped.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 662. For the purposes of carrying out this part, there are authorized to be appropriated $10,000,000 for fiscal year 1987, $10,500,000 for fiscal year 1988, and $11,025,000 for fiscal year 1989."

20 USC 1462.

TITLE IV—MISCELLANEOUS

SEC. 401. REMOVAL OF ARCHITECTURAL BARRIERS.

Section 607(a) of the Act (20 U.S.C. 1406) is amended by inserting "with the Secretary of the Interior and" after "cooperative agreements".

SEC. 402. DEFINITIONS.

Section 602(a) of the Act (20 U.S.C. 1401(a)) is amended—

(1) in paragraph (11), by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and", and by adding at the end the following:

"(F) The term includes community colleges receiving funding from the Secretary of the Interior under Public Law 95-471.", and

25 USC 1801 note.

(2) by adding at the end the following:

"(23)(A) The term 'public or private nonprofit agency or organization' includes an Indian tribe.

"(B) The terms 'Indian', 'American Indian', and 'Indian American' mean an individual who is a member of an Indian tribe.

"(C) The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).".

43 USC 1601 note.

SEC. 403. ALLOCATION; STATE ADMINISTRATION.

(a) ALLOCATION.—Section 611(a)(5)(A) of the Act (20 U.S.C. 1411(a)(5)(A)) is amended to read as follows:

"(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

"(i) handicapped children aged three to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged three to seventeen, inclusive, in such State and the State serves all handicapped children aged three to five, inclusive, in the State pursuant to State law or practice or the order of any court,

"(ii) handicapped children aged five to seventeen, inclusive, in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 percent of the number of all children aged five to seventeen, inclusive, in such State and the State does not serve all handicapped children aged three to five, inclusive, in the State pursuant to State law or practice on the order of any court; and

"(iii) handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.".

20 USC 2731.

(b) STATE ADMINISTRATION.—Section 611(c)(2)(A)(ii) of the Act (20 U.S.C. 1411(c)(2)(A)(ii)) is amended to read as follows:

"(ii) the part remaining after use in accordance with clause (i) shall be used by the State (I) to provide support services and direct services in accordance with the priorities established under section 612(3), and (II) for the administrative costs of monitoring and complaint investigation but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.".

20 USC 1412.

SEC. 404. INDIANS.

Subsection (f) of section 611 of such Act (20 U.S.C. 1411) is amended to read as follows:

"(f)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate amounts available to all States under this section for that fiscal year.

"(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which—

"(A) meets the applicable requirements of sections 612, 613, and 614(a),

20 USC 1412; *post*, p. 1174. 20 USC 1414.

"(B) includes satisfactory assurance that all handicapped children aged 3 to 5, inclusive receive a free appropriate public education by or before the 1987–1988 school year,

"(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and designated local school boards before adoption of the policies, programs, and procedures required under sections 612, 613, and 614(a), and

"(D) is approved by the Secretary.

Section 616 shall apply to any such application.". 20 USC 1416.

SEC. 405. QUALIFIED PERSONNEL.

State and local governments. *Ante*, p. 1159.

Section 613(a) of the Act (20 U.S.C. 1413) is amended by inserting at the end thereof the following:

"(14) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including—

"(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, and

"(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State.".

SEC. 406. EVALUATION.

Section 618 of the Act (20 U.S.C. 1418) is amended to read as follows:

"EVALUATION

Grants. Contracts. State and local governments.

"SEC. 618. (a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

"(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts and efforts by the Secretary of Interior to provide free appropriate public education to all handicapped children and youth and early intervention services to handicapped infants and toddlers, and

"(2) to provide—

"(A) Congress with information relevant to policymaking, and

"(B) Federal, State, and local agencies and the Secretary of Interior with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.

"(b) In carrying out subsection (a), the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to handicapped infants, toddlers, children, and youth, and such additional information, from State and local educational agencies, the Secretary of Interior, and other appropriate sources, as is necessary for the implementation of this Act including—

"(1) the number of handicapped infants, toddlers, children, and youth in each State receiving a free appropriate public education or early intervention services (A) in age groups 0–2 and 3–5, and (B) in age groups 6–11, 12–17, and 18–21 by disability category,

"(2) the number of handicapped children and youth in each State who are participating in regular educational programs (consistent with the requirements of sections 612(5)(B) and 614(a)(1)(C)(iv)) by disability category, and the number of handicapped children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who

20 USC 1412, 1414.

100 STAT. 1175 have been otherwise removed from the regular education environment,

"(3) the number of handicapped children and youth exiting the educational system each year through program completion or otherwise (A) in age group 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category and anticipated services for the next year,

"(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services and for early intervention services (which may be based upon a sampling of data from State agencies including State and local educational agencies),

"(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped children and youth and early intervention services to handicapped infants and toddlers by disability category served, and the estimated number and type of additional personnel by disability category needed to adequately carry out the policy established by this Act, and

"(6) a description of the special education and related services and early intervention services needed to fully implement this Act throughout each State, including estimates of the number of handicapped infants and toddlers in the 0-2 age group and estimates of the number of handicapped children and youth (A) in age group 3-5 and (B) in age groups 6-11, 12-17, and 18-21 and by disability category.

Federal Register, publication.

"(c) The Secretary shall, by grant, contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

"(d)(1) The Secretary may enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs assisted under this Act.

"(2) An agreement under paragraph (1) shall—

"(A) provide for the payment of not to exceed 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of programs assisted under this Act, and

"(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

"(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

"(4) In addition, the Secretary shall disseminate information from such studies to State agencies, regional resources centers, and clearinghouses established by this Act, and, as appropriate, to others involved in, or concerned with, the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

100 STAT. 1176

"(e)(1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

"(2) At least one study shall focus on obtaining and compiling current information available, through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services) and shall gather information needed in order to calculate a range of per pupil expenditures by handicapping condition.

Report.

"(f)(1) Not later than 120 days after the close of each fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped children and youth and early intervention services for handicapped infants and toddlers. The annual report shall be transmitted to the appropriate committees of each House of Congress and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

"(2) The Secretary shall include in each annual report under paragraph (1)—

"(A) a compilation and analysis of data gathered under subsection (b),

"(B) an index and summary of each evaluation activity and results of studies conducted under subsection (c),

"(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act,

20 USC 1411.

"(D) an analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services,

"(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities, and

"(F) any recommendation for change in the provisions of this Act or any other Federal law providing support for the education of handicapped children and youth.

"(3) In the annual report under paragraph (1) for fiscal year 1985 which is published in 1986 and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through G of this title, and

20 USC 1421–1454; *Ante*, p. 1172.

"(B) data reported under sections 621, 622, 623, 627, 634, 641, and 661.

Ante, pp. 1159–1161; 20 USC 1426, 1434, *Ante*, p. 1169. *Ante*, p. 1172.

"(4) In the annual report under paragraph (1) for fiscal year 1988 which is published in 1989, the Secretary shall include special sections addressing the provision of a free appropriate public education to handicapped infants, toddlers, children, and youth in rural areas and to handicapped migrants, handicapped Indians (particularly programs operated under section 611(f)), handicapped Native Hawaiian, and other native Pacific basin children and youth, handicapped infants, toddlers, children and youth of limited English proficiency.

100 STAT. 1177

Ante, p. 1173.

"(5) Beginning in 1986, in consultation with the National Council for the Handicapped and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, a description of the status of early intervention services for handicapped infants and toddlers from birth through age two, inclusive, and special education and related services to handicapped children from 3 through 5 years of age (including those receiving services through Head Start, Developmental Disabilities Programs, Crippled Children's Services, Mental Health/Mental Retardation Agency, and State child-development centers and private agencies under contract with local schools).

"(g) There are authorized to be appropriated $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, and $4,200,000 for fiscal year 1989 to carry out this section.".

SEC. 407. REPEAL.

Section 604 of the Act (20 U.S.C. 1403) is repealed.

Approved October 8, 1986.

LEGISLATIVE HISTORY—S. 2294 (H.R. 5520):

HOUSE REPORTS: No. 99-860 accompanying H.R. 5520 (Comm. on Education and Labor).
SENATE REPORTS: No. 99-315 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 132 (1986):
  June 6, considered and passed Senate.
  Sept. 22, H.R. 5520 considered and passed House; proceedings vacated and S. 2294, amended, passed in lieu.
  Sept. 24, Senate concurred in House amendments.

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100 STAT. 1268

Public Law 99-498
99th Congress

An Act

Oct. 17, 1986
[S. 1965]

To reauthorize and revise the Higher Education Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Higher Education Amendments of 1986.
20 USC 1001 note.

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Higher Education Amendments of 1986".

(b) References.—References in this Act (except as otherwise provided) to "the Act" are to the Higher Education Act of 1965.

(c) Table of Contents.—

Sec. 1. Short title; references; table of contents.
Sec. 2. Effective date.
Sec. 3. Contracting authority subject to appropriations.

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"Sec. 102. Definitions.
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"Sec. 112. Establishment of off-campus program grants.
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"Sec. 115. Authorization of appropriations.

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"Sec. 131. National Advisory Council on Continuing Education.".

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"TITLE III—INSTITUTIONAL AID

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"TITLE IV—STUDENT ASSISTANCE

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"Sec. 411B. Eligibility determination for dependent students.
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"Sec. 411E. Regulations; updated tables.
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"Sec. 1063. Authorization of appropriations.".

Sec. 1004. Technical amendment.

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

Sec. 1101. Program authorized.

"TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

"Part A—Partnerships for Economic Development

"Sec. 1101. Findings and purpose.
"Sec. 1102. Use of economic development funds.
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"Part B—Urban Community Service

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"Part D—Wagner Institute of Urban Public Policy

"Sec. 1131. Purpose; designation.
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TITLE XII—GENERAL PROVISIONS

Sec. 1201. Treatment of territories and territorial student assistance.
Sec. 1202. Reauthorization of the National Advisory Committee on Accreditation and Institutional Eligibility.
Sec. 1203. Commission to study postsecondary institutional and programmatic recognition process.
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Sec. 1205. Financial responsibility of foreign students.
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TITLE XIII—EDUCATION ADMINISTRATION

Part A—Secretarial Studies and Evaluations

Sec. 1301. Satisfactory progress.
Sec. 1302. National Endowment for International Studies.
Sec. 1303. Data study required.
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Sec. 1305. Study of bankruptcy treatment of students.
Sec. 1306. Study of Pell Grant less than half-time students.
Sec. 1307. Authorization of appropriations.

Part B—General Accounting Office Reports

Sec. 1311. Study of practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program.
Sec. 1312. Study of use of multiple-year lines of credit.
Sec. 1313. Study of multiple disbursement.
Sec. 1314. Student loan consolidation.

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Part C—Costs of Postsecondary Education

Sec. 1321. National Commission on Responsibilities for Financing Postsecondary Education.

Part D—Library Resources

Sec. 1331. Study of the effectiveness of the needs criteria for the college library resource program authorized.

PART E—NATIONAL ACADEMY OF SCIENCES STUDY

Sec. 1341. Volunteers.

PART F—FAULKNER UNIVERSITY

Sec. 1351. Relief of liability.

PART G—ALIEN YOUTH EDUCATION OPPORTUNITY PANEL

Sec. 1361. Denial of student assistance to certain noncitizens.

PART H—BOSTON COLLEGE

Sec. 1371. Debt provision.

PART I—CARL ALBERT CONGRESSIONAL RESEARCH AND STUDIES CENTER

Sec. 1381. Appropriation provision.

TITLE XIV—EDUCATION RESEARCH AND STATISTICS

Sec. 1401. Educational research and improvement.
Sec. 1402. Center for Education Statistics.
Sec. 1403. Use of Council staff and facilities.
Sec. 1404. Special projects under the Secretary's discretionary funds.

TITLE XV—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

Sec. 1501. Short title.
Sec. 1502. Findings.
Sec. 1503. Definitions.

PART A—AMERICAN INDIANS AND ALASKAN NATIVES

Sec. 1504. Establishment of Institute.
Sec. 1505. Board of Trustees.
Sec. 1506. Executive Board.
Sec. 1507. General powers of the Board.
Sec. 1508. President of the Institute.
Sec. 1509. Staff of Institute.
Sec. 1510. Functions of the Institute.
Sec. 1511. Indian preference.
Sec. 1512. Nonprofit and nonpolitical nature of the Institute.
Sec. 1513. Tax status.
Sec. 1514. Transfer of functions.
Sec. 1515. Reports.
Sec. 1516. Headquarters.
Sec. 1517. Compliance with other Acts.
Sec. 1518. Endowment program.

PART B—NATIVE HAWAIIANS

Sec. 1521. Program for Native Hawaiian culture and art development.
Sec. 1522. Administrative provisions.

PART C—AUTHORIZATION OF APPROPRIATIONS

Sec. 1531. Authorization of appropriations.

TITLE XVI—UNITED STATES INSTITUTE OF PEACE

Sec. 1601. Authorizations of appropriations.

20 USC 1001 note.

SEC. 2. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made
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by this Act shall take effect on the date of enactment of this Act.

20 USC 1146a.

SEC. 3. CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS.

The authority to enter into contracts or other obligations under this Act (other than amendments made to part B of title IV of the
20 USC 1071.
Act) shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE I—AMENDMENT TO TITLE I OF THE ACT

SEC. 101. REVISION OF TITLE I.

20 USC 1001.

Title I of the Act is amended to read as follows:

"TITLE I—POSTSECONDARY PROGRAMS FOR NONTRADITIONAL STUDENTS

"FINDINGS

"SEC. 101. The Congress finds that— 20 USC 1001.

"(1) the increasing incidence of relocation and dislocation of industries and workers, the entry and reentry of adults into the labor force, and the rapid rate of change in technology, the economy, population demographics, and social conditions, necessitate significant improvement in postsecondary educational opportunities for adults in all stages of life;

"(2) the majority of adults who continue their education do so for job-related and career-oriented reasons or to fulfill admissions requirements for educational or vocational training;

"(3) minority-group citizens comprise the fastest growing segment of the population and labor force, yet are underrepresented in adult education programs;

"(4) access to postsecondary educational opportunities is limited for adults whose educational needs have been inadequately served, or for those whose age, sex, race, disability, national origin, rural isolation, or economic or personal circumstances (such as marital status or responsibility with regard to dependent children) are barriers to such opportunities;

"(5) enrollment of adult learners (including individuals aged 50 and over) approaches or equals that of traditional students in postsecondary institutions and such enrollment patterns are changing the demography of postsecondary education;

"(6) the organizational structure and administration of postsecondary institutions often represents a significant barrier to matriculation for the adult learner and such institutions need to adapt themselves to integrate adult learners;

"(7) the Federal Government should encourage the development of institutional partnerships between the public and private sectors and postsecondary institutions for the purpose of planning and implementing effective educational programs and services for the adult learner; and

"(8) it is in the interest of the Federal Government to support continuing education for adults in order to reduce unemployment and underemployment, enhance job opportunities, and promote a well-trained, flexible, internationally competitive work force and an educated citizenry.

"DEFINITIONS

"SEC. 102. For the purpose of this title— 20 USC 1002.

"(1) the term 'continuing education' means postsecondary instruction and support services that are designed to meet the educational needs of adult learners;

"(2) the term 'adult learner' means an individual who by reason of personal circumstance, age, gender, disability, minority status, income, rural isolation, economic or educational disadvantage, marital status, presence of dependent children, lack of or need for new employment skills (including skills needed to pursue a new career) or other significant barrier (A) is not a traditional student, and (B) engages in some form of structured postsecondary study to improve the individual's knowledge, information skills, or employment opportunities;

"(3) the term 'eligible institution' means an institution of higher education, combinations of institutions of higher education, or consortia of any such institutions; and

"(4) the term 'qualified entity' means a public or nonprofit private organization which has—

"(A) experience in administering a program consistent with the requirements of this title; and

"(B) demonstrated the ability to coordinate, manage, and provide technical assistance to programs that receive grants under this title.

"LIMITATION ON CONTRACT AUTHORITY

20 USC 1003.

"SEC. 103. The authority to enter into contracts under this title is subject to the availability of appropriations.

"PART A—PROGRAM AND PLANNING GRANTS

"INSTITUTIONAL DEVELOPMENT

Employment and Unemployment. 20 USC 1011.

"SEC. 111. (a) PURPOSE.—It is the purpose of this section—

"(1) to assist eligible institutions to establish programs relating postsecondary education resources more closely to the continuing educational training needs of the American work force;

"(2) to help strengthen the capacity of postsecondary institutions to respond to the continuing education needs of adults, especially adults—

"(A) dislocated by technological and economic change,

"(B) seeking entry, reentry, or progression in the work force after prolonged absences due to marriage and childrearing;

"(C) isolated from educational resources due to age or geographic location;

"(D) seeking entry into nontraditional occupations for their race or sex;

"(E) receiving aid to families with dependent children;

"(F) who are functionally illiterate; and

"(G) who desire to pursue a new career; and

"(3) to support cooperative arrangements between eligible institutions, community-based organizations, and private and public sector employers that will facilitate meeting the goals of paragraphs (1) and (2).

Contracts.

"(b) GRANTS.—To carry out the purpose of this section, the Secretary shall make grants to, and enter into contracts with, eligible institutions for activities, such as—

"(1) structuring an academic program designed to facilitate the attendance of working students, parents caring for dependent children, and individuals seeking to reenter the educational system;

"(2) making academic programs available to adult learners at convenient times and locations;

"(3) the encouragement of resource sharing for innovative uses of technology, including telecommunications (on an interstate or intrastate basis) to overcome barriers to continuing education opportunities and to develop innovative delivery systems for education programs;

"(4) the creation or expansion of education programs and curriculum, including adult literacy efforts, designed to meet the present and future needs of the labor market;

"(5) the development of cooperative relationships between business and labor organizations, community-based organizations, and agencies which provide opportunities for continuing education;

"(6) the removal of barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking continuing educational opportunities;

"(7) educational information, including literacy information, student financial assistance information, and occupational information and counseling services designed to meet the special needs of inadequately served adults and to assist their entry or reentry into continuing education and the labor force;

"(8) training for administrators, faculty, and staff to improve their ability to teach and serve adult learners; and

"(9) development of remedial instruction programs for adult learners to enable them to enroll in college-level educational programs.

"(c) ADDITIONAL USE OF FUNDS.—(1) Funds awarded under this section to any eligible institution shall be used for the purposes under subsection (b), except that, to a limited extent as approved by the Secretary, such funds may also be used for program planning and development to carry out the purposes of this section including—

"(A) making adult and continuing educational opportunities available at convenient times and locations, including off-campus locations;

"(B) evaluating the responsiveness of continuing education programs to the work and career-related objectives of adults;

"(C) developing or expanding educational and occupational information and counseling services to meet the special needs of adults, including information concerning available forms of student financial assistance;

"(D) training of personnel in continuing education programs to improve their ability to serve adult learners;

"(E) developing or expanding high-technology delivery systems and curricula to ensure closer development and career transitions for adult learners;

"(F) joint planning and implementation activities between institutional and private sector representatives to expand educational opportunities;

"(G) promoting the sharing of personnel and resources between an eligible institution and an employer;

"(H) contributing to dependent care programs for low income participants in adult and continuing education and the development of dependent care programs; and

"(I) encouraging and developing collaborative efforts between the institution or institutions and combinations of education institutions, private and public institutions, organizations, business, and labor to develop programs responsive to current employment and economic conditions.

"(2) Funds made available under this section may not be used—

"(A) to purchase or rent facilities to be used in connection with the program or for general operational overhead of the eligible institution; or

"(B) to pay stipends or provide direct financial assistance to any individual participating in the programs established under this section.

"(d) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution may submit an application to the Secretary at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the need for assistance. The Secretary shall make awards on a competitive basis.

"(2) Each such application shall—

"(A) provide evidence that the eligible institution has identified the educational needs of potential adult learners in the area served by the applicant, especially adults identified in subsection (a)(2);

"(B) describe the current continuing education program offered by the eligible institution (including information concerning the professional competence of faculty and staff, their degree of participation in the continuing education program, and institutional resources committed to the continuing education program) and the activities proposed to be developed or assisted to meet the purposes of this section;

"(C) provide assurance that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, and 75 percent in the third year;

"(D) describe procedures for evaluating the effectiveness of the activities for which a grant or contract is awarded under this section;

"(E) provide for such financial controls and accounting procedures as are necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section and to ensure that funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this section and in no case supplant those funds;

"(F) provide assurances that the continuing education programs, services, and activities, funded under this section will not be limited to individuals who are enrolled in programs of study that lead to baccalaureate or graduate degrees, but will also include programs for adults enrolled in noncredit continuing education programs, that address the purposes of this section;

State and local governments.

"(G) provide assurances that the program funded under this section does not duplicate existing State funded programs, and, in the case of any public institution, that the proposed program is consistent with the State's goals for that institution;

"(H) provide the projected number of students who will participate in the program and the proposed operational budget for the program, including the specific amounts proposed to be expended for salaries;

"(I) include assurances that the applicant intends to continue the activities to be supported under the grant after termination of the grant, including a detailed plan for obtaining funds to continue such activities;

"(J) provide assurances that funds made available under this section will be used only for the purposes of this section;

"(K) provide for a reasonable period of review and comment on the proposed program by the appropriate State agency and include any such comments with the application to the Secretary; and

"(L) include such other information as the Secretary may reasonably require to carry out the provisions of this section.

"(3) In awarding grants or contracts the Secretary shall give priority consideration to eligible institutions which—

"(A) as appropriate, include area employer and employee organizations in the planning of the proposed continuing education activity and provide assurances of the continued participation of such organizations in the implementation, operation, and evaluation of the funded activities;

State and local governments.

"(B) include assurances that the appropriate State agencies concerned with postsecondary education and State labor market and economic agencies have been consulted in the development of the proposal;

"(C) demonstrate a willingness to conduct and integrate into the curriculum work-oriented professional and technical continuing education programs;

"(D) demonstrate the capacity to obtain contributions of staff, equipment, and resources for such programs from nonacademic sources, particularly employers; and

"(E) provide assurances that adults enrolled in such programs will have access to suitable and adequate financial assistance opportunities, including Federal student aid funds available for students enrolled less than half time.

"ESTABLISHMENT OF OFF-CAMPUS PROGRAM GRANTS

"SEC. 112. (a) **PURPOSE; OFF-CAMPUS EDUCATION PROGRAMS.**—The Secretary shall establish a grant program to assist postsecondary institutions in developing programs to encourage the establishment and growth of off-campus educational programs. 20 USC 1012.

"(b) **USES OF FUNDS.**—Grants made under this section to any institution may be used for planning, developing, or operating a program designed by the institution to carry out the purposes of this section including—

"(1) the development and use of high-technology educational delivery systems using computers, radio, television, teleconferencing, video-disc, print, any combination of such components, or such other means as may provide direct use and access by individuals to off-campus programs; 100 STAT. 12

"(2) the development of interstate educational delivery systems, cooperative, and consortia arrangements and programs (including telecommunications) which more effectively address regional needs for education;

"(3) training of faculty and staff to develop educational programs using creative and innovative delivery systems;

"(4) development of technological systems designed to enhance the teaching capabilities of faculty for students off-campus;

"(5) the development of curricula and student support services for students off-campus; and

"(6) acquisition (by lease or purchase) of necessary equipment, except that not more than 10 percent of such funds may be used for such acquisition.

"(c) **APPLICATIONS FOR ASSISTANCE.**—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

"(2) An institution, in its application for a grant, shall—

"(A) describe a program for establishing or improving delivery systems for students off-campus which shall include (i) the proposed operational budget for the program or activities to be conducted with funds received under the grant; (ii) the educational program or courses which would be made available off-campus; and (iii) the educational needs which the program is designed to address;

"(B) describe the applicant's current off-campus program or plans for an off-campus program;

"(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

"(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this section and in no case supplant those funds;

"(E) provide assurances that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, and 75 percent in the third year;

"(F) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

"(G) provide such other information as the Secretary may require.

"(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

"ADULT AND CONTINUING EDUCATION STAFF DEVELOPMENT

20 USC 1013.

"SEC. 113. (a) PURPOSE.—It is the purpose of this section to assist eligible institutions to provide in-service training to individuals involved in providing adult and continuing education services, including personnel involved in training offered under the Adult Education Act, the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the National Apprenticeship Act, the Older Americans Act of 1965, and the Social Security Act.

20 USC 1201 note.
20 USC 1501 note.
20 USC 2301 note.
29 USC 701 note.
29 USC 50 note.
42 USC 3001 note.
42 USC 1305.

"(b) GRANTS AUTHORIZED.—To carry out the purpose of this section, the Secretary shall make grants to eligible postsecondary institutions that have entered into agreements with the Secretary to carry out an adult and continuing education staff development training program in accordance with the requirements of this section, which may include—

"(1) programs designed to enhance the pedagogical skills of the staff involved in programs offering adult and continuing education, including the training of staff and volunteers for literacy programs;

"(2) technical assistance to programs of adult education, with particular emphasis on federally funded programs; and

"(3) development of adult and continuing educational curricula materials, including adult literacy curricula, that may be used in adult and continuing education staff development training, especially materials that focus on utilization of new technologies.

"(c) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

"(2) An institution, in its application for a grant, shall—

"(A) describe a proposal for establishing or improving staff development programs including the proposed operational budget for the program or activities to be conducted with funds made available under this section;

"(B) describe the applicant's current staff development program;

"(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

"(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this part and in no case supplant those funds;

"(E) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

"(F) provide such other information as the Secretary may require.

"(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

"(4) A grant under this section may not exceed $50,000 for any fiscal year and may be awarded for a period not to exceed 3 years.

"ADMINISTRATION OF PROGRAMS BY THE SECRETARY

Urban areas.
Rural areas.
20 USC 1014.

"SEC. 114. The Secretary shall ensure the equitable geographic distribution of funds under this part. In making awards under this part, the Secretary shall consider the equitable levels of funding for urban and rural areas. Grants and contracts under section 111 or 112 may be awarded for a period not to exceed 3 years and may not exceed $100,000 in the first year of funding, except that a grant or contract involving combinations of institutions of higher education or a consortia with other institutions or organizations may not exceed $150,000 in the first year.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1015.

"SEC. 115. There is authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years. One hundred percent of the funds appropriated under this section for fiscal year 1987 shall be available only to carry out sections 111 and 112.

"PART B—NATIONAL PROGRAMS

"ADULT LEARNING RESEARCH

Grants.
Contracts.
20 USC 1016.

"SEC. 121. (a) ESTABLISHMENT OF PROGRAM.—To carry out the purpose of this section by providing assistance to institutions of higher education, the Secretary is authorized to make grants to, and to enter into contracts with, eligible institutions to ensure a sustained capacity to undertake independent research and research application activities in adult and continuing education.

"(b) USES OF FUNDS.—Funds made available under this section to any eligible institution may be used for planning, developing, or operating a program which may include—

"(1) identifying and analyzing the special problems and needs of adult learners;

"(2) collecting, analyzing, and disseminating information relating to adult learners and their educational and employment objectives, with particular focus on analyzing and disseminating information on the current and projected needs of the labor market;

"(3) examining and applying uses of education technologies to reach new and isolated learners;

State and local
governments.

"(4) collecting and disseminating relevant data from Federal agencies and other national and State resources applicable to postsecondary institutional planning for continuing education, including information related to Federal and other forms of student financial assistance;

"(5) supporting training programs designed to enhance the effectiveness of faculty to teach adult learners;

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"(6) developing curriculum and instructional methods for adults seeking new employment opportunities;

"(7) demonstrating and disseminating new and existing programs designed for the adult learner; and

"(8) promoting resource sharing for innovative uses of technology, including telecommunications, to overcome barriers to postsecondary educational opportunities.

"(c) APPLICATION FOR ASSISTANCE.—A grant or contract authorized by this part may be awarded by the Secretary on a competitive basis upon receipt of an application, which is submitted to the Secretary at such time or times and contains such information as the Secretary may prescribe. Each such application shall—

"(1) contain provisions that demonstrate the existing resources and academic reputation of the institution of higher education in the field of continuing education and its ability to conduct such activities; and

"(2) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

"AUTHORIZATION LIMITATION

20 USC 1016a.

"SEC. 122. No funds are authorized to be appropriated for the purpose of this part for fiscal year 1987 and the 4 succeeding fiscal years.

"PART C—THE NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

20 USC 1017.

"SEC. 131. (a) ESTABLISHMENT AND COMPOSITION.—The President shall appoint a National Advisory Council on Continuing Education consisting of 8 representatives of Federal agencies having postsecondary continuing education and training responsibilities, including, but not limited to—

"(1) one representative each from—

"(A) the Department of Education,

"(B) the Department of Agriculture,

"(C) the Department of Defense,

"(D) the Department of Labor, and

"(E) the Veterans' Administration; and

"(2) 12 members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served.

The Advisory Council shall meet at the call of the Chairman but not less than twice a year.

"(b) ADVISORY FUNCTIONS.—The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this Act with respect to continuing education.

"(c) FUNCTIONS RELATING TO ELIMINATING DUPLICATION.—The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this Act with respect to continuing education and other federally funded continuing education and training programs and services.

"(d) REPORTS.—The Advisory Council shall make annual reports to the President, the Congress, and the Secretary of its findings and recommendations, including recommendations for changes in the provisions of this Act with respect to continuing education and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

President of U.S.

"(e) USE OF SERVICES.—The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this section.".

TITLE II—LIBRARIES

SEC. 201. PURPOSE; AUTHORIZATION.

(a) Designation of Title.—The heading of title II is amended to read as follows:

"TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT".

20 USC 1021.

(b) Purpose.—Section 201(a) of the Act is amended by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part D.".

Post, p. 1289.

(c) Authorization of Appropriations.—Section 201(b) of the Act is amended to read as follows:

Post, p. 1289.

"(b)(1) There are authorized to be appropriated to carry out part A $10,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

20 USC 1031.

"(2) There are authorized to be appropriated to carry out part B $5,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

20 USC 1041.

"(3) There are authorized to be appropriated to carry out part C $10,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(4) There are authorized to be appropriated to carry out part D $5,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 202. COLLEGE LIBRARY RESOURCES.

Grants.
20 USC 1029.

Section 211 of the Act is amended to read as follows:

"COLLEGE LIBRARY RESOURCES

"Sec. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

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"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter in this section referred to as the 'base year'), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two years preceding the base year;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

Reports.

"(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were expended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

"(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

"(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

"(1) the expenditures of the institution per full-time equivalent student for library materials are less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the Center for Education Statistics; and

"(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the Center for Education Statistics.

"(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For the purpose of this subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

"(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may not grant such waivers to more than 5 percent of the eligible institutions receiving grants under this part.

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"(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, computer software, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.".

SEC. 203. DEFINITION OF FULL-TIME EQUIVALENT STUDENT.

Part A of title II of the Act is further amended by inserting after section 212 the following new sections:

"DEFINITION

20 USC 1030.

"SEC. 213. For the purpose of this part, the term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12).".

SEC. 204. REPEAL OF SPECIAL PURPOSE GRANTS.

20 USC 1034.

(a) REPEAL.—Section 224 of the Act is repealed.

(b) CONFORMING AMENDMENTS.—(1) Section 221 of the Act is amended to read as follows:

"GRANTS AUTHORIZED

20 USC 1031. 20 USC 1032, 1033.

"SEC. 221. From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223. Of such amount, two-thirds shall be available for the purpose of section 222 and one-third shall be available for the purpose of section 223.".

20 USC 1041.

(2) Section 231(b) of the Act is amended by striking out "or 224".

SEC. 205. RESEARCH AND DEMONSTRATION.

Section 223 of the Act is amended by striking out "and information technology,". 20 USC 1033.

SEC. 206. STRENGTHENING RESEARCH LIBRARY RESOURCES.

Section 231 of the Act is further amended by inserting at the end thereof the following new subsection: 20 USC 1041.

"(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.".

SEC. 207. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION.

Part D of title II of the Act is amended to read as follows:

"PART D—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"ESTABLISHMENT OF PROGRAM

"SEC. 241. (a) The Secretary is authorized to make grants for technological equipment and other special purposes to— 20 USC 1047.

100 STAT.

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, installation, maintenance, or replacement of technological equipment (including computer hardware and software) necessary to participate in networks for sharing of library resources;

"(2) combinations of higher education institutions which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects to meet special national or regional needs in utilizing technology to enhance library or information sciences.

"(b) From funds appropriated for this part, the Secretary shall make competitive awards to institutions or combinations of institutions in each of the categories described in clauses (1) through (4) of subsection (a). The minimum award shall be $15,000 and may be expended over a 3-year period.

"(c) A grant under this section may be made only if the application (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that the applicant will expend during the 3-year period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"(d) This program shall be administered in the Department by an expert in library technology.".

TITLE III—INSTITUTIONAL AID

SEC. 301. INSTITUTIONAL AID REAUTHORIZED.

(a) AMENDMENT.—Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"FINDINGS AND PURPOSES

20 USC 1051.

"Sec. 301. (a) Findings.—The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities, including endowment building;

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"(3) the title III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

"(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

"(5) providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in title III and enhance their role in providing access and quality education to low-income and minority students;

"(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

"(7) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

"(b) Purpose.—It is the purpose of this title to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

"Part A—Strengthening Institutions

"PROGRAM PURPOSE

20 USC 1057.

"Sec. 311. (a) General Authorization.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

"(b) Grants Awarded; Special Consideration.—(1) From the sums available for this part under section 358(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

"(2) Special consideration shall be given to any eligible institution—

"(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

"(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

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"(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

"(A) faculty development;

"(B) funds and administrative management;

"(C) development and improvement of academic programs;

"(D) acquisition of equipment for use in strengthening funds management and academic programs;

"(E) joint use of facilities such as libraries and laboratories; and

"(F) student services.

"DEFINITIONS; ELIGIBILITY

"SEC. 312. (a) EDUCATIONAL AND GENERAL EXPENDITURES.—For the purpose of this part, the term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law. 20 USC 1058.

"(b) ELIGIBLE INSTITUTION.—For the purpose of this part, the term 'eligible institution' means—

"(1) an institution of higher education—

"(A) which has an enrollment of needy students as required by subsection (c) of this section;

"(B) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(C)(i) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) is a junior or community college;

"(D) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(E) except as provided in section 352(b) has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

"(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

"(ii) met the requirement of subparagraph (D); and

"(F) meets such other requirements as the Secretary may prescribe;

"(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph;

"(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combina-

100 STAT. 1293 tion thereof, and which also satisfies the requirements of subparagraphs (A) and (B) of paragraph (1);

"(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

"(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A) and (B) of paragraph (1).

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

"(c) ENROLLMENT OF NEEDY STUDENTS.—For the purpose of this part, the term 'enrollment of needy students' means an enrollment at an institution of higher education or a junior or community college which includes—

"(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under title IV of this Act (other than loans for which an interest subsidy is paid pursuant to section 428), or

"(2) a substantial percentage of students receiving Pell Grants in the second preceding fiscal year, in comparison with the percentage of students receiving Pell Grants at all such institutions in such fiscal year, unless the requirement of this subdivision is waived under section 352(a).

"(d) FULL-TIME EQUIVALENT STUDENTS.—For the purpose of this part, the term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

"(e) JUNIOR OR COMMUNITY COLLEGE.—For the purpose of this part, the term 'junior or community college' means an institution of higher education—

"(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(3) that—

"(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

"(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

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"DURATION OF GRANT

20 USC 1059.

"SEC. 313. (a) GENERAL RULE.—The Secretary may award a grant to an eligible institution under this part for—

"(1) not to exceed 3 years;

"(2) not to exceed 4 years; or

"(3) not to exceed 5 years.

"(b) PROHIBITION.—An eligible institution that is awarded a grant—

"(1) under paragraph (2) of subsection (a) shall not be eligible to receive a grant under this part during the 4 years immediately following the period that it received such grant; and

"(2) under paragraph (3) of subsection (a) shall not be eligible to receive a grant under this part during the 5 years immediately following the period that it received such grant.

"(c) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

"PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"FINDINGS AND PURPOSES

"SEC. 321. The Congress finds that— 20 USC 1060.

"(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

"(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education; 7 USC 301 note.

"(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

"(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

"DEFINITIONS

"SEC. 322. For the purpose of this part: 20 USC 1061.

"(1) The term 'graduate' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years. 100 STAT. 1295

"(2) The term 'part B institution' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.

"(3) The term 'Pell Grant recipient' means a recipient of financial aid under subpart 1 of part A of title IV of this Act.

"(4) The term 'professional and academic areas in which Blacks are underrepresented' shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

"(5) The term 'school year' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

"GRANTS TO INSTITUTIONS

20 USC 1062.

"SEC. 323. (a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 358(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities.

"(3) Support of faculty exchanges and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(4) Academic instruction in disciplines in which Black Americans are underrepresented.

"(5) Purchase of library books, periodicals, microfilm, and other educational materials.

"(6) Tutoring, counseling, and student service programs designed to improve academic success.

"(b) LIMITATIONS.—(1) No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term 'school or department of divinity' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

"ALLOTMENTS TO INSTITUTIONS

20 USC 1063.

"SEC. 324. (a) ALLOTMENT; PELL GRANT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

"(b) ALLOTMENT; GRADUATES BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

"(c) ALLOTMENT; GRADUATE AND PROFESSIONAL STUDENT BASIS.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the number of such graduates for all part B institutions.

"(d) REALLOTMENT.—The amount of any part B institution's allotment under subsection (a), (b), or (c) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

"(e) SPECIAL MERGER RULE.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

"(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

"(f) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

"APPLICATIONS

"SEC. 325. (a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E) of section 312(b)(1) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall— 20 USC 1063a.

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"(1) provide that the payments under this Act will be used for the purposes set forth in section 322; and

"(2) provide for making an annual report to the Secretary and provide for—

"(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit. 31 USC 7501.

"(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

"PROFESSIONAL OR GRADUATE INSTITUTIONS

Grants.
20 USC 1063b.

"SEC. 326. (a) GENERAL AUTHORIZATION.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for Black Americans.

"(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources.

"(b) DURATION.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

"(c) USES OF FUNDS.—A grant under this section may be used for—

"(1) any of the purposes enumerated under section 323;

"(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

"(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 333 of this title.

"(d) APPLICATION.—Any institution eligible for a grant under this section shall submit an application which—

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"(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

"(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

"(e) ELIGIBLE PROFESSIONAL OR GRADUATE INSTITUTIONS.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

"(1) Morehouse School of Medicine;

"(2) Meharry Medical School;

"(3) Charles R. Drew Postgraduate Medical School;

"(4) Atlanta University; and

"(5) Tuskegee Institute School of Veterinary Medicine.

"REPORTING AND AUDIT REQUIREMENTS

Grants.
20 USC 1063c.

"SEC. 327. (a) RECORDKEEPING.—Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which fully disclose—

"(1) the amount and disposition by such recipient of the proceeds of such assistance;

"(2) the cost of the project or undertaking in connection with which such assistance is given or used;

"(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

"(4) such other records as will facilitate an effective audit.

"(b) REPAYMENT OF UNEXPENDED FUNDS.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

20 USC 1064.

"SEC. 331. (a) GENERAL AUTHORIZATION; ELIGIBILITY.—(1) From the sums available under section 360(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

"(B) which is an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(C) which is an institution that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

Disadvantage persons. Minorities.

"(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

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"(b) USES OF FUNDS.—A grant under this section may be used by an institution eligible for a grant under this section to assist the institution to achieve financial independence.

"(c) DURATION OF GRANT.—The Secretary may make a grant under this section for a period of not more than 5 years, subject to annual appropriations.

State and loca governments.

"(d) CONTENTS OF APPLICATIONS.—Any institution eligible for a challenge grant under this section may apply for such a grant under section 351, except that the application for the purpose of this part shall—

"(1) provide assurances that funds will be available to the applicant within one year to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) demonstrate how challenge grant funds will be used to achieve financial independence.

"(e) NOTICE OF APPROVAL.—Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive challenge grants under such section and notify the institutions of the amount of the grant.

"(f) PREFERENCE.—In approving applications for such grants, preference shall be given to institutions which are receiving, or have received, grants under part A or part B of this title.

"ENDOWMENT CHALLENGE GRANTS

20 USC 1065.

"SEC. 332. (a) PURPOSE; DEFINITIONS.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

"(2) For the purpose of this section:

"(A) The term 'endowment fund' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

"(B) The term 'endowment fund corpus' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

"(C) The term 'endowment fund income' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

"(b) GRANTS AUTHORIZED.—(1) From sums available for this section under section 360, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

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"(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

"(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

"(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

"(ii) applies for a grant in an amount exceeding $1,000,000.

"(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant.

"(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

"(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

"(B) No institution shall be ineligible for a challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

"(5) Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

"(A) not be less than $50,000 for any fiscal year; and

"(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

"(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

"(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

"(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

"(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

"(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

"(c) **Grant Agreement; Endowment Fund Provisions.**—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

Securities.
Insurance.
Banks and banking.

"(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

"(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

"(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

"(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

"(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

"(d) **Repayment Provisions.**—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

"(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

"(e) **Audit Information.**—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

"(f) **Selection Criteria.**—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

100 STAT. 1302 "(1) give priority to an applicant which is a recipient of a grant made under part A or B of this title during the academic year in which the applicant is applying for a grant under this section;

"(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

"(3) consider—

"(A) the effort made by the applicant to build or maintain its existing endowment fund; and

"(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

"(g) APPLICATION.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

"(h) TERMINATION AND RECOVERY PROVISIONS.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

"(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

"(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

"(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

"(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

"PART D—GENERAL PROVISIONS

"APPLICATIONS FOR ASSISTANCE

20 USC 1066.

"SEC. 351. (a) APPLICATION REQUIRED; APPROVAL.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

Grants.

"(b) CONTENTS.—An institution, in its application for a grant, shall—

"(1) set forth, or describe how the institution (other than an institution applying under part C) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

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"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

Report.

"(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

"(6) provide that the institution will comply with the limitations set forth in section 356;

"(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

"(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

"(D) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;

"(E) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

100 STAT. 130

"(F) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

"(8) include such other information as the Secretary may prescribe.

"(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

5 USC 500 *et seq.*

"(d) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

"WAIVER AUTHORITY AND REPORTING REQUIREMENT

20 USC 1067. State and local governments. Disadvantaged persons. Minorities. Rural areas. Indians.

"SEC. 352. (a) **WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.**—The Secretary shall waive the requirements set forth in section 312(b)(1)(A) in the case of an institution—

"(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

"(2) which serves a substantial number of low- and middle-income students as a percentage of its total student population;

"(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

"(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

"(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians; or

"(6) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, ~~or~~ Pacific Islanders, including Native Hawaiians.

"(b) **WAIVER DETERMINATIONS; EXPENDITURES.**—(1) The Secretary may waive the requirements set forth in section 312(b)(1)(B) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

Report.

"(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 312(b)(1)(B), have been determined to be eligible institutions under part A institutions which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

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"(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 312(b)(1); and

"(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

"APPLICATION REVIEW PROCESS

20 USC 1068.

"SEC. 353. (a) **REVIEW PANEL.**—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

"(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

"(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including— Grants.

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) Recommendations of Panel.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) Notification.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

"(1) the scores given the applicant by the panel pursuant to this section;

"(2) the recommendations of the panel with respect to such application; and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

"COOPERATIVE ARRANGEMENTS

"Sec. 354. (a) General Authority.—The Secretary may make grants to encourage cooperative arrangements— Grants. 20 USC 1069.

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

"(b) Priority.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

"(c) Duration.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or section 323.

"SPECIAL PAYMENTS RULES

"Sec. 355. (a) Historically Black College Payments Rule.— Any historically Black college or university which, prior to September 30, 1986, received a grant under part A of this title as in effect prior to such date and continues to receive a grant under such part A for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid from amounts appropriated to carry out part B of this title. Grants. 20 USC 1069a.

"(b) Other Institutions Special Payment Rule.—Each eligible institution other than an historically Black college or university which received a grant under part B of this title as in effect prior to such date and continues to receive a grant under such part B for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid out of appropriations made pursuant to part A.

"(c) Special Rule for Unobligated Part A and Part B Funds.—In any fiscal year in which amounts appropriated pursuant to part A or part B for this title are available for obligation in the year succeeding the year in which the funds were appropriated, the Secretary shall make such funds available for grants under section 332, relating to the endowment challenge grant program, for the same type of institution for which the grants would have been made had the funds been paid pursuant to such part A or part B.

"ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

20 USC 1069b. "Sec. 356. (a) Assistance Eligibility.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

"(b) Waiver Applicability.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive 100 STAT. 1307 any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

"(c) Limitation.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

"LIMITATIONS

State and local governments. 20 USC 1069c. "Sec. 357. The funds appropriated under section 360 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

"PENALTIES

20 USC 1069d. "Sec. 358. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

"CHALLENGE GRANT APPLICATION REQUIRED

20 USC 1069e. "Sec. 359. The Secretary shall not make a Challenge Grant to any grantee institution under section 313(a)(2) or under part B which has not applied for funds under part C and complied with section 332(a)(1) of part C after September 30, 1989.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 360. (a) AUTHORIZATIONS.—(1) There are authorized to be appropriated to carry out part A $120,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years. 20 USC 1069f

"(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $100,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326 $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(3) There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(4) Funds appropriated for part C shall remain available until expended.

"(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986—

"(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A to institutions that are junior or community colleges not less than $51,400,000; and

"(2) the Secretary shall, for such fiscal year—

"(A) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(B) allocate 75 percent of such excess among other eligible institutions.

"(d) RATABLE REDUCTION IN FISCAL YEARS IN WHICH AMOUNTS APPROPRIATED ARE INSUFFICIENT.—In any fiscal year in which the sums appropriated for part A are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect July 1, 1987. 20 USC 1051 note.

TITLE IV—STUDENT ASSISTANCE

SEC. 401. STUDENTS GRANTS REAUTHORIZED.

(a) AMENDMENT.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended to read as follows:

"TITLE IV—STUDENT ASSISTANCE

"PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

State and loca
governments.
Disadvantage
persons.
20 USC 1070.

"SEC. 401. (a) PURPOSE.—It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

"(1) providing basic educational opportunity grants to all eligible students;

"(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

“(3) providing for payments to the States to assist them in making financial aid available to such students;

“(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

100 STAT. 1309

“(5) providing assistance to institutions of higher education.

“(b) **Secretary Required To Carry Out Purposes.**—The Secretary shall, in accordance with subparts 1 through 8, carry out programs to achieve the purposes of this part.

“Subpart 1—Basic Educational Opportunity Grants

“BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

20 USC 1070a.

“Sec. 411. (a) **Program Authority and Method of Distribution.**—(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1992, pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2). Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students.

“(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

“(3) Basic grants made under this subpart shall be known as ‘Pell Grants’.

“(b) **Purpose and Amount of Grants.**—(1) The purpose of this subpart is to provide a basic grant that (A) as determined under paragraph (2), will meet 60 percent of a student’s cost of attendance (as defined in section 411F); and (B) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 percent of a student’s cost of attendance (as defined in section 472), unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

“(2)(A) The amount of the basic grant for a student eligible under this subpart shall be—

“(i) $2,300 for academic year 1987-1988,
“(ii) $2,500 for academic year 1988-1989,
“(iii) $2,700 for academic year 1989-1990,
“(iv) $2,900 for academic year 1990-1991, and
“(v) $3,100 for academic year 1991-1992,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

“(B) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act.

Regulations.
Federal Register, publication.

“(3) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in section 411F) at the institution at which the student is in attendance for that year.

100 STAT. 13

"(4) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 411F) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

"(5) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $200.

"(6) No basic grant shall be awarded under this subpart to any student who is attending on a less than half-time basis—

"(A) from funds appropriated for fiscal years before fiscal year 1989;

"(B) from funds appropriated for fiscal year 1989 or 1990, unless the expected family contribution for such student is less than or equal to zero; or

"(C) from funds appropriated for fiscal year 1991, unless the expected family contribution for such student is less than or equal to $200.

"(7) No basic grant shall be awarded under this subpart from funds appropriated for fiscal year 1989 to students who are attending on a less than half-time basis if awarding basic grants to such students would cause basic grants to other students to be reduced pursuant to subsection (g). The provisions of this paragraph may not be waived unless enacted in express limitation of this paragraph.

"(c) Period of Eligibility for Grants.—(1) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that—

"(A) such period may not exceed the full-time equivalent of—

"(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

"(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

"(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

"(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

"(i) the death of a relative of the student;

"(ii) the personal injury or illness of the student; or

"(iii) special circumstances as determined by the institution.

"(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills.

100 STAT. 131

"(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

"(d) Applications for Grants.—(1) The Secretary shall from time to time set dates by which students shall file applications for basic grants under this subpart.

"(2) Each student desiring a basic grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

"(e) Distribution of Grants to Students.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

"(f) Calculation of Eligibility.—(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a basic grant under this subpart is attending) an estimate of the eligibility index for each such student. Each such student financial aid administrator shall—

"(A) examine and assess the data used to calculate the eligibility index of the student furnished pursuant to this subsection;

"(B) recalculate the eligibility index of the student if there has been a change in circumstances of the student or in the data submitted;

"(C) make the award to the student in the correct amount; and

"(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the eligibility index for each such student.

"(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

Report.

"(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986-1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the eligibility index, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.

"(g) Adjustments for Insufficient Appropriations.—(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the amount paid with respect to each entitlement shall be—

"(A) the full amount for any student whose expected family contribution is $200 or less, or

"(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(2) Any schedule established by the Secretary for the purpose of paragraph (1) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.

"(h) Use of Excess Funds.—(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

"(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

"(i) Noncontractor Status of Institutions.—Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

"FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS; DATA ELEMENTS

"Sec. 411A. (a) General Rule for Determination of Expected Family Contribution.—(1) The expected family contribution— 20 USC 1070a-1

"(A) for a dependent student shall be determined in accordance with section 411B,

"(B) for an independent student with dependents other than a spouse shall be determined in accordance with section 411C, and

"(C) for a single independent student or a married independent student without other dependents shall be determined in accordance with section 411D.

"(2) The following data elements are considered in determining the expected family contribution:

"(A) the effective income of (i) the student and the student's spouse; and (ii) the student's parents, in the case of a dependent student;

"(B) the number of family members in the household; 100 STAT. 13

"(C) the number of family members in the household who are enrolled, on at least a half-time basis, in a program of postsecondary education;

"(D) the assets of (i) the student and the student's spouse, and (ii) the student's parents, in the case of a dependent student;

"(E) the marital status of the student;

"(F) the unusual medical expenses of (i) the student's parents, in the case of a dependent student, or (ii) the student and the student's spouse, in the case of an independent student;

"(G) the additional expenses incurred (i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954; and 26 USC 2.

"(H) the tuition paid (i) in the case of a dependent student, by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school, (ii) in the case of an independent student, by the student or the student's spouse for dependent children who are so enrolled.

"ELIGIBILITY DETERMINATION FOR DEPENDENT STUDENTS

20 USC 1070a-2.

"SEC. 411B. (a) COMPUTATION OF STUDENT AID INDEX.—For each dependent student, the student aid index is equal to the sum of—

"(1) the contribution from parents' income and assets, determined in accordance with subsection (b);

"(2) the contribution from student's (and spouse's) income, determined in accordance with subsection (h); and

"(3) the contribution from student's (and spouse's) assets, determined in accordance with subsection (l).

"(b) CONTRIBUTION FROM PARENTS' INCOME AND ASSETS.—The parents' contribution from income and assets is equal to the amount determined by—

"(1) computing the standard contribution from parents' income, determined in accordance with subsection (c);

"(2) adding the contribution from parents' assets, determined in accordance with subsection (g); and

"(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

"(c) STANDARD CONTRIBUTION FROM PARENTS' INCOME.—The standard contribution from parents' income is determined by calculating the effective family income in accordance with subsection (d); by deducting the total offsets against income, as determined in accordance with subsection (e); and by assessing the results in accordance with subsection (f).

Taxes.

"(d) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the parents as reported to the Internal Revenue Service for the year immediately preceding the award year, and income earned from work but not reported on a Federal income tax return; and

"(B) the total annual amount of untaxed income and benefits, received by the parents in the year immediately preceding the award year; minus

"(2) the sum of—

"(A) the amount of United States income tax paid or payable by the parents in the tax year preceding the award year; and

"(B) an allowance for State and other taxes, as determined by multiplying the parents' total income (as determined under paragraph (1)) by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8

"Percentages for Computation of State and Other Tax Allowance—Continued

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

"(e) Total Offsets Against Income.—Total offsets against income are determined by deducting—

"(1) a family size offset as determined by the following table:

"Family Size Offsets

Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6

"(2) an offset for unusual medical and dental expenses;

"(3) an offset for employment expenses; and

"(4) an offset for unreimbursed elementary and secondary school tuition and fees.

100 STAT. 1315

"(f) Assessment of Effective Family Income.—(1) If the effective family income (as determined under subsection (d)) minus the total offsets (as determined under subsection (e)) is a negative amount, the standard contribution from the parents' income is zero.

"(2) If such effective family income is a positive amount, the standard contribution from effective family income is determined in accordance with the following chart:

"Effective family income	Expected contribution
$0 to $5,000	11% of effective family income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(g) Contribution From Parents' Assets.—The standard contribution from parents' assets is determined in accordance with paragraphs (1) through (7):

"(1) If the parental assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(3) If the parental assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

"(5)(A) The expected contribution from parental assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the calculation of effective family income required by subsection (d) produces a negative number, the expected contribution from parental assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6)(A) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

"(B) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

"(7) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under this subpart for any academic year, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"(h) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The contribution from student's (and spouse's) income is determined by calculating the student's (and spouse's) effective income, as determined in accordance with subsection (i), by deducting the total offsets against income, as determined in accordance with subsection (j), and by assessing the results in accordance with subsection (k).

"(i) DETERMINATION OF STUDENT'S (AND SPOUSE'S) EFFECTIVE INCOME.—The effective income of the student (and spouse) is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year, or income earned from work other than amounts earned under part C of this title, but not reported on a Federal income tax return; and

"(B) the total annual amount of untaxed income and benefits received by the student (and spouse) in the year immediately preceding the award year; minus

"(2) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year.

"(j) TOTAL OFFSETS AGAINST STUDENT'S (AND SPOUSE'S) INCOME.—Total offsets against student's (and spouse's) income are determined by deducting—

"(1) a dependent student offset of $3,500, or $5,100 in the case of a dependent student with a spouse; and

"(2) if the parental effective family income (as determined under subsection (f)) is a negative amount, the amount, if any, by which the result of the subtraction performed under subsection (g)(5) is less than zero.

"(k) **Assessment of Student's (and Spouse's) Income.**—If the student's (and spouse's) effective income (as determined under subsection (i)) minus the total offsets (as determined under subsection (j)) is a negative amount, the contribution from student income is zero. If the student's (and spouse's) effective income is a positive amount, multiply it by 75 percent to determine the contribution from student's income.

"(l) **Determination of Contribution From Student's (and Spouse's) Assets.**—The contribution from the student's (and spouse's) assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 33 percent.

"ELIGIBILITY DETERMINATION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

"Sec. 411C. (a) **Computation of Student Aid Index.**—For independent students with dependents other than a spouse, the student aid index is equal to the amount determined by— 20 USC 1070a-3.

"(1) computing the standard contribution from student's (and spouse's) income determined in accordance with subsection (b);

"(2) adding the contribution from student's (and spouse's) assets determined in accordance with subsection (f); and

"(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

"(b) **Computing the Standard Contribution From Student's (and Spouse's) Income.**—The standard contribution from the student's (and spouse's) income is determined by calculating the effective family income in accordance with subsection (c); by deducting the total offsets against income, as determined in accordance with subsection (d); and by assessing the results in accordance with subsection (e).

"(c) **Determination of Effective Family Income.**—The effective family income is equal to— Taxes.

"(1) the sum of—

"(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year and income earned from work, other than amounts received under part C of this title, but not reported on a Federal income tax return;

"(B) the total annual amount of untaxed income and benefits which is received by the student (and spouse) in the year immediately preceding the award year; and

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period; minus

"(2) the sum of—

"(A) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(B) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income (as determined under paragraph (1)) by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

100 STAT. 1318

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset equal to the amount specified in the following table:

"Family Size Offsets

Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6

"(2) an offset for unusual medical and dental expenses;

"(3) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, an offset for employment expenses; and

26 USC 2.

"(4) an offset for unreimbursed elementary and secondary school tuition and fees.

"(e) ASSESSMENT OF EFFECTIVE FAMILY INCOME.—(1) If the effective family income (as determined under subsection (c)) minus the total offsets (as determined under subsection (d)) is a negative amount, the standard contribution from the student's (and spouse's) income is zero.

"(2) If such effective family income is a positive amount, the standard contribution from effective family income is determined in accordance with the following chart:

"Effective family income	Expected contribution
$0 to $5,000	11% of effective family income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The standard contribution from student's (and spouse's) assets is determined in accordance with paragraphs (1) through (7):

100 STAT. 1319

"(1) If the student's (and spouse's) assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(2) If the student's (and spouse's) assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

Farms and farming.

"(3) If the student's (and spouse's) assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4) If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

"(5)(A) The expected contribution from student's (and spouse's) assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

"(B) If the calculation of effective family income required by subsection (c) produces a negative number, the expected contribution from student's (and spouse's) assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(6) If the married independent student with dependents is separated or divorced, only assets of the independent student shall be considered.

"(7) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under this subpart for any academic year, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"ELIGIBILITY DETERMINATION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS

20 USC 1070a-4.

"SEC. 411D. (a) COMPUTATION OF STUDENT AID INDEX.—For single independent students or married independent students without other dependents, the student aid index is equal to the amount determined by—

100 STAT. 1320

"(1) computing the standard contribution from student's (and spouse's) income determined in accordance with subsection (b);

"(2) adding contribution from student's (and spouse's) assets determined in accordance with subsection (f); and

"(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

"(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by calculating the effective family income in accordance with subsection (c); by deducting the total offsets against income, as determined in accordance with subsection (d); and by assessing the results in accordance with subsection (e).

Taxes.

"(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to—

"(1) the sum of—

"(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year and income earned from work, other than amounts received under part C of this title, but not reported on a Federal income tax return;

"(B) the total annual amount of untaxed income and benefits which is received by the student (and spouse) in the year immediately preceding the award year; and

"(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period; minus

"(2) the sum of—

"(A) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

"(B) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income (as determined under paragraph (1)), by a percentage determined according to the following table:

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

100 STAT. 1321

"(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

"(1) a family size offset equal to the amount specified in the following table:

"Family Size Offsets

Family members	Amount
1	$5,300
2	6,700

"(2) an offset for unusual medical and dental expenses; and

"(3) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, an offset for employment expenses. 26 USC 2.

"(e) ASSESSMENT OF EFFECTIVE FAMILY INCOME.—(1) If the effective family income (as determined under subsection (c)), minus the total offsets (as determined under subsection (d)) is a negative amount, the standard contribution from the student's (and spouse's) income is zero.

"(2) If such effective family income is a positive amount, the standard contribution from student's (and spouse's) income is multiplied by 75 percent.

"(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—(1) The asset contribution amount of an independent student and the student's spouse is equal to 5 percent of the sum of the amounts computed under paragraphs (3) and (4), reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

"(2) The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which effective family income as computed under subsection (c) is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

"(3) If the assets of an independent student with a spouse include a principal place of residence, deduct $30,000 from the net value of the principal place of residence. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

"(4)(A) If the assets of an independent student with a spouse include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

Farms and farming.

"(B)(i) If the assets of an independent student with a spouse include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

"(ii) If the sum of the farm and business deduction and the deductions in paragraphs (3) and (4)(A) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

"(5) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under this subpart for any academic year, the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

"REGULATIONS; UPDATED TABLES

20 USC 1070a-5.

"SEC. 411E. (a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this subpart except—

"(A) to prescribe updated tables under sections 411B through 411D; or

"(B) to propose modifications in the need analysis methodology required by this subpart.

Federal Register, publication.

"(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsection (b), or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsection (b) of this section.

100 STAT. 1323

"(b) PROVISIONS GOVERNING UPDATED TABLES.—(1)(A) Each of the amounts allowed as an offset for family size for dependent and independent students shall, for each academic year after academic year 1988–1989, be adjusted by the Secretary by increasing (or decreasing) the comparable amount for the preceding academic year by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounded to the nearest $100.

Federal Register, publication.

"(B) The Secretary shall publish in the Federal Register a revised table for an offset for family size in accordance with section 482.

Federal Register, publication.

"(2)(A) The Secretary shall, for each academic year after academic year 1988–1989, publish in the Federal Register such revisions in offsets against income, asset determination, and assessment rates as are necessary to reflect the most recent and relevant data.

"(B) The Secretary shall publish in the Federal Register the revised determinations required by subparagraph (A) in accordance with section 482.

"DEFINITIONS; DETERMINATIONS

20 USC 1070a-6.

"SEC. 411F. For the purpose of this subpart—

"(1) The term 'annual adjusted family income' means the sum received in the year immediately preceding the award year, by the student's parents (in the case of a dependent student), or by the student and, if applicable, the student's spouse (in the case of an independent student), except excludable income under paragraph (9) of this subsection, from the following sources subject to the following rules:

26 USC 62.

"(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954.

"(B) Untaxed income and benefits, as defined in paragraph (13) of this section.

38 USC 1651 *et seq.*, 1700 *et seq.*

"(C) Income from one-half of any veteran's benefits expected to be paid to the student during the award period under chapters 34 and 35 of title 38 of the United States Code.

"(D) Income for a student whose parents are divorced or separated is determined under the following procedures:

"(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(E) Income in the case of the death of any parent as follows:

"(i) If either of the parents have died, the student shall include only the income of the surviving parent.

"(ii) If both parents have died, the student shall not report any parental income.

"(F) Income in the case of a parent whose income is taken into account under subparagraph (D) of this paragraph, or a parent who is a widow or widower and whose income is taken into account under clause (i) of this subparagraph, has remarried, under the following rule: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if—

"(i) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(ii) the student is not an independent student.

"(G)(i) Income in the case of a dislocated worker shall be the income for the year for which the determination is made.

"(ii) For the purpose of this subparagraph, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

29 USC 1651.

"(2) The term 'assets' means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(3) The term 'award year' is the period of time between July 1 of the first year and June 30 of the following year.

"(4) The term 'business assets' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

"(5) The term 'cost of attendance' means—

"(A) the student's tuition and uniform compulsory fees at the institution at which the student is in attendance for any award year, plus

"(B)(i) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not exceed $1,700 for a student without dependents residing at home with parents;

"(ii) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not exceed $2,300 for all other students, subject to clause (iii);

"(iii) an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with clause (iv)) for less than half-time students (as determined by the institution);

"(iv) an allowance for child care which shall not exceed $1,000; and

"(v) an allowance for the costs of special services and equipment required for attendance by the handicapped that are not provided by other assisting agencies;

except that, if the maximum award under this subpart is less than or greater than $2,300, then the dollar amounts specified in clauses (i) and (ii) of subparagraph (B) of this paragraph shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,300, respectively.

"(6) Except as otherwise provided, the term 'dependent of the student' means the parents of the student, the student's spouse, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.

100 STAT. 1325

Taxes.

"(7) Effective family income shall be determined on the basis of the annual adjusted family income minus the Federal taxes and imputed State and other taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

"(8)(A) The employment expense offset is determined as follows:

"(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

26 USC 2.

"(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the parent's earned income.

"(B) The employment expense offset in the case of an independent student with dependents is determined as follows:

"(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

"(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

"(9)(A) The term 'excludable income' means the income described in subparagraphs (B), (C), and (D) of this paragraph which is excluded for the purpose of determining 'annual adjusted family income' under paragraph (1).

Indians.

"(B) For a Native American student, the annual adjusted family income does not include the income received by the student, the student's spouse, or the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, et seq.).

"(C) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

"(D) The annual adjusted family income does not include any student financial assistance except veterans' or Social Security benefits set forth in paragraph (15) of this subsection.

"(10)(A) In determining family size in the case of a dependent student—

"(i) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

"(ii) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents, including the student; and "(iii) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income. 100 STAT. 1326

"(B) In determining family size in the case of an independent student with dependents—

"(i) family members include the student, the student's spouse, and the student's dependents; and

"(ii) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

"(11) The term 'farm assets' means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"(12)(A) The term 'independent', when used with respect to a student, means any individual who—

"(i) is 24 years of age or older by December 31 of the award year; or

"(ii) meets the requirements of subparagraph (B).

"(B) Except as provided in subparagraph (C), an individual meets the requirements of this subparagraph if such individual—

"(i) is an orphan or ward of the court;

"(ii) is a veteran of the Armed Forces of the United States;

"(iii) is a gradulate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(iv) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(v) has legal dependents other than a spouse;

"(vi) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total income of $4,000; or

"(vii) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(C) An individual may not be treated as an independent student pursuant to clauses (iii), (iv), and (vi) of subparagraph (B) if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year. 100 STAT. 1327

"(D) The financial aid administrator may certify an individual described in clause (iii), (iv), or (vi) of subparagraph (B) on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

"(13) The term 'net assets' means the current market value at the time of application of the assets included in the definition of 'assets', minus the outstanding liabilities (indebtedness) against the assets.

"(14) The term 'unreimbursed elementary and secondary school tuition and fees' means the unreimbursed tuition and fees paid by the student's parents for each dependent other than the student, or by an independent student (and spouse) for dependents enrolled in elementary or secondary school, and may not exceed for each such dependent the national average per pupil instructional cost as published by the Center for Education Statistics using the most recent available data.

"(15) The term 'untaxed income and benefits' means—

"(A) investment income upon which no Federal income tax is required to be paid, such as the interest on municipal bonds;

"(B) untaxed portions of capital gains;

"(C) credit for Federal tax on special fuels;

"(D) dividend exclusions and dividend reinvestment exclusions;

"(E) foreign income exclusions;

"(F) child support received;

42 USC 601.

"(G) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, and aid to dependent children;

38 USC 1651 *et seq.*, 1700 *et seq.*

"(H) veterans benefits such as Death Pension and Dependency and Indemnity Compensation, except that veterans educational benefits paid under chapters 34 and 35 of title 38 of the United States Code, Veterans' Administration contributory benefits, and Veterans' Administration vocational rehabilitation program benefits for postsecondary education shall not be included;

"(I) untaxed Social Security benefits, including supplemental security income which individuals receive for themselves and for children under age 18;

"(J) interest on tax free bonds;

"(K) housing, food, and other living allowances, excluding rent subsidies for low-income housing, paid to members of the military, the clergy, and others; and

29 USC 1501 note.

"(L) Job Training Partnership Act noneducational benefits.

"(16)(A) The term 'unusual medical and dental expenses' means an amount equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the parents. The expenses of both parents are included only if the income of both parents is included in determining effective family income. A stepparent's expenses are included only if the parent's income is included in determining effective family income.

100 STAT. 1328

"(B) The term 'unusual medical and dental expenses', in the case of an independent student with dependents, means an amount equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the independent student with dependents. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

"SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

"PURPOSE; APPROPRIATIONS AUTHORIZED

20 USC 1070b.

"SEC. 413A. (a) PURPOSE OF SUBPART.—It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $490,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

"AMOUNT AND DURATION OF GRANTS

"SEC. 413B. (a) AMOUNT OF GRANT.—(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable the student to pursue a course of study at the institution, or (B) $4,000. 20 USC 1070b-1.

"(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

"(b) PERIOD FOR RECEIPT OF GRANTS; CONTINUING ELIGIBILITY.—(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

"(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

"(c) DISTRIBUTION OF GRANT DURING ACADEMIC YEAR.—Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

100 STAT. 132

"AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS

"SEC. 413C. (a) INSTITUTIONAL ELIGIBILITY.—Assistance may be made available under this subpart only to an institution which— 20 USC 1070b-2.

"(1) has, in accordance with section 487, an agreement with the Secretary applicable to this subpart;

"(2) agrees that the Federal share of awards under this subpart will not exceed—

"(A) 95 percent of such awards in fiscal year 1989,

"(B) 90 percent of such awards in fiscal year 1990, and

"(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

"(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

"(A) institutional grants and scholarships;

"(B) tuition or fee waivers;

"(C) State scholarships; and

"(D) foundation or other charitable organization funds.

"(b) Eligibility for Selection.—Awards may be made under this subpart only to a student who—

"(1) is an eligible student under section 484; and

"(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

"(c) Selection of Individuals and Determination of Amount of Awards.—(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D, select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

"(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

"(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

"(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

"(B) For the purpose of subparagraph (A), the term 'students with exceptional need' means students with the lowest expected family contributions at the institution.

"(d) Use of Funds for Less-Than-Full-Time Students.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students.

100 STAT. 1330

"(e) Use and Transfer of Funds for Administrative Expenses.—An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 of this title, and may transfer such funds in accordance with the provisions of section 488.

"ALLOCATION OF FUNDS

20 USC 1070b-3.

"Sec. 413D. (a) Allocation Based on Previous Allocation.—(1) From the amount appropriated pursuant to section 413A(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received and used under this subpart for fiscal year 1985.

"(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

"(i) $5,000; or

"(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

"(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

"(i) $5,000;

"(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or "(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

"(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

"(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

"(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

"(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

"(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

"(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

100 STAT. 1331

"(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) Allocation of Excess Based on Pro Rata Share.—From one-quarter of the remainder of the amount appropriated pursuant to section 413A(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

"(c) Allocation of Excess Based on Fair Share.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 413A(b) for each year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 413A(b) of the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(d) Determination of Institution's Need.—(1) The amount of an institution's need is equal to—

"(A) the sum of the need of the institution's eligible undergraduate students; minus

"(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

"(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 75 percent of the average cost of attendance for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G).

"(3)(A) For purposes of paragraph (2), the term 'average cost of attendance' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

"(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

"(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

"(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

"(e) Reallocation of Excess Allocations.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

"(f) Filing Deadlines.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"Subpart 3—Grants to States for State Student Incentives

"PURPOSE; APPROPRIATIONS AUTHORIZED

"Sec. 415A. (a) **Purpose of Subpart.**—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study. 20 USC 1070c.

100 STAT. 1333

"(b) **Authorization of Appropriations; Availability.**—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

"ALLOTMENT AMONG STATES

"Sec. 415B. (a) **Allotment Based on Number of Eligible Students in Attendance.**—(1) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979. 20 USC 1070c-1.

"(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

"(b) **Reallotment.**—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under subsection (a) for such year.

"(c) **Allotments Subject to Continuing Compliance.**—The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 415C(b).

"APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

"Sec. 415C. (a) **Submission and Contents of Applications.**—A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart. 20 USC 1070c-2.

"(b) **Payment of Federal Share of Grants Made by Qualified Program.**—From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such

100 STAT. 1334 State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

"(1) is administered by a single State agency;

"(2) provides that such grants will be in amounts not in excess of $2,500 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

"(3) provides that—

"(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

"(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

"(C) grants for such jobs be made in accordance with the provisions of section 443(b)(1);

"(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary;

"(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

"(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

"(7) provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students;

"(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

"(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

"(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

100 STAT. 1335

"(c) RESERVATION AND DISBURSEMENT OF ALLOTMENTS AND REALLOTMENTS.—Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

"ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 415D. (a) DISAPPROVAL OF APPLICATIONS; SUSPENSION OF ELIGIBILITY.—(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing. 20 USC 1070c-3.

"(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

"(b) REVIEW OF DECISIONS.—(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

"DEFINITION

"SEC. 415E. For the purpose of this subpart, the term 'community service' means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which— 20 USC 1070c-4.

"(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literary training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

"(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

"SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

20 USC 1070d.

"SEC. 417A. (a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, and to train individuals serving or preparing for service in programs and projects so designed.

"(b) ELIGIBLE GRANT AND CONTRACT RECIPIENTS.—(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this subpart, there are authorized to be appropriated $205,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) DEFINITIONS.—For the purpose of this subpart—

"(1) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree;

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census; and

Veterans.

"(3) no veteran shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age who—

"(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

"(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

"TALENT SEARCH

20 USC 1070d-1.

"SEC. 417B. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) Tutorial Services.—A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

"(c) Requirements for Approval of Applications.—In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

Disadvantaged persons.

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed 6 years of elementary education or are at least 12 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E;

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E; and

"(4) require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"UPWARD BOUND

20 USC 1070d-1a.

"Sec. 417C. (a) Program Authority.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) Permissible Services.—Any upward bound project assisted under the subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) Requirements for Approval of Applications.—In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

Disadvantaged persons.

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

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"STUDENT SUPPORT SERVICES

20 USC 1070d-1b.

"SEC. 417D. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services (hereinafter referred to as 'student support services').

"(b) PERMISSIBLE SERVICES.—A support services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services and counseling and peer counseling;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

"(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for support services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school;

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

"(5) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"(d) POST-BACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.—(1) The Secretary shall carry out a program to be known as the "Post-Baccalaureate Achievement Program".

"(2) A post-baccalaureate achievement project assisted under this subsection may provide services such as—

"(A) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

"(B) summer internships;

"(C) seminars and other educational activities designed to prepare students for doctoral study;

"(D) tutoring;

"(E) academic counseling; and

"(F) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

"(2) In approving applications for post-baccalaureate achievement projects assisted under this subsection for any fiscal year, the Secretary shall require—

Disadvantaged persons.

"(A) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first-generation college students;

"(B) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

"(C) an assurance that participants be enrolled in a degree program at an eligible institution in accordance with the provisions of section 487; and

"(D) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

"(4) In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this subsection—

"(A) the quality of research and other scholarly activities in which students will be involved;

"(B) the level of faculty involvement in the project and the description of the research in which students will be involved; and

"(C) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this subsection.

"(5) Students participating in research under a post-baccalaureate achievement project may receive stipends not to exceed $2,400 per annum.

"(6) No funds shall be allocated to projects authorized under this subsection until projects authorized by the other provisions of this subpart are allocated a minimum of $168,800,000, and in no case shall funds allocated to projects authorized under this subsection exceed—

"(A) $1,000,000 in the fiscal year 1988,
"(B) $2,000,000 in the fiscal year 1989,
"(C) $3,000,000 in the fiscal year 1990, and
"(D) $4,000,000 in the fiscal year 1991.

"EDUCATIONAL OPPORTUNITY CENTERS

20 USC 1070d-1c.

100 STAT. 1341

"Sec. 417E. (a) **Program Authority; Services Provided.**—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) **Tutorial and Counseling Services.**—An educational opportunity center assisted under this subpart may provide, in addition to the services described in paragraphs (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

"(c) **Requirements for Approval of Applications.**—In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

20 USC 1070d-1d.

"Sec. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

"Subpart 5—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

"MAINTENANCE AND EXPANSION OF EXISTING PROGRAMS

20 USC 1070d-2.

100 STAT. 1342

"Sec. 418A. (a) **Program Authority.**—The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

"(b) Services Provided by High School Equivalency Program.—The services authorized by this subpart for the high school equivalency program include—

"(1) recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;

"(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

"(3) supportive services which include the following:

"(A) personal, vocational, and academic counseling;

"(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

"(C) health services;

"(4) information concerning and assistance in obtaining available student financial aid;

"(5) weekly stipends for high school equivalency program participants;

"(6) housing for those enrolled in residential programs;

"(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

"(8) other essential supportive services, as needed to ensure the success of eligible students.

"(c) Services Provided by College Assistance Migrant Program.—Services authorized by this subpart for the college assistance migrant program include—

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;

"(2) supportive and instructional services which include:

"(A) personal, academic, and career counseling as an ongoing part of the program;

"(B) tutoring and academic skill building instruction and assistance;

"(C) assistance with special admissions;

"(D) health services; and

"(E) other services as necessary to assist students in completing program requirements;

"(3) assistance in obtaining student financial aid which includes, but is not limited to:

"(A) stipends;

"(B) scholarships;

"(C) student travel;

"(D) career oriented work study;

"(E) books and supplies;

"(F) tuition and fees;

"(G) room and board; and

"(H) other assistance necessary to assist students in completing their first year of college;

"(4) housing support for students living in institutional facilities and commuting students;

"(5) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

"(6) other support services as necessary to ensure the success of eligible students.

"(d) Management Plan Required.—Each project application shall include a management plan which contains assurances that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

"(1) staff in-service training;
"(2) training and technical assistance;
"(3) staff travel;
"(4) student travel;
"(5) interagency coordination; and
"(6) an evaluation plan.

"(e) THREE-YEAR GRANT PERIOD; CONSIDERATION OF PRIOR EXPERIENCE.—Except under extraordinary circumstances, the Secretary shall award grants for a 3-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

"(f) MINIMUM ALLOCATIONS.—The Secretary shall not allocate an amount less than—

"(1) $150,000 for each project under the high school equivalency program, and

"(2) $150,000 for each project under the college assistance migrant program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for this part $9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

"STATEMENT OF PURPOSE

20 USC 1070d-31.

"SEC. 419A. It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

"DEFINITION

20 USC 1070d-32.

"SEC. 419B. For the purpose of this subpart—

"(1) the term 'secondary school' has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

20 USC 2854.

"(2) the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SCHOLARSHIPS AUTHORIZED

State and local governments. 20 USC 1070d-33.

"SEC. 419C. (a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

"(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

"(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this subpart may attend any institution of higher education.

"(d) BYRD SCHOLARS.—Individuals awarded scholarships under this subpart shall be known as 'Byrd Scholars'.

"ALLOCATION AMONG STATES

"SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E— 20 USC 1070d-34.

"(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 419G(b), plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section.

"AGREEMENTS

"SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that— 20 USC 1070d-35.

"(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in paragraph (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"ELIGIBILITY OF SCHOLARS

"SEC. 419F. (a) HIGH SCHOOL GRADUATION OR EQUIVALENT AND ADMISSION TO INSTITUTION REQUIRED.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education. 20 USC 1070d-36.

"(b) SELECTION BASED ON PROMISE OF ACADEMIC ACHIEVEMENT.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

"SELECTION OF SCHOLARS

"SEC. 419G. (a) ESTABLISHMENT OF CRITERIA.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart. State and local governments. 20 USC 1070d-37.

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth).

"(c) CONSULTATION REQUIREMENT.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators school boards, teachers, counselors, and parents.

"STIPENDS AND SCHOLARSHIP CONDITIONS

20 USC 1070d-38.

"Sec. 419H. (a) Amount of Award.—Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

State and local governments.

"(b) Use of Award.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

"AWARDS CEREMONY

20 USC 1070d-39.

"Sec. 419I. (a) Local Ceremony.—The State educational agency shall make arrangements to award scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonweal~~th of Puerto~~ Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

"(b) Timing of Selection.—The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

"CONSTRUCTION OF NEEDS PROVISIONS

20 USC 1070d-40.

"Sec. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other

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provision of Federal law relating to educational assistance.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1070d-41.

"Sec. 419K. There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"Subpart 7—Assistance to Institutions of Higher Education

"PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Grants. 20 USC 1070e.

"Sec. 420. (a) Cost of Education Payments.—Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

"(b) Computation of Amount.—(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d), the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

"(2)(A)(i) The Secretary shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

"If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.

"If the total number of students in attendance is—	The amount of the grant is—
Over 5,000 but not over 10,000	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000.

"(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to the student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

"(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

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"(B)(i) The Secretary shall determine with respect to each institution an amount equal to the appropriate percent (specified on the table below) of the aggregate of—

"(I) supplemental educational opportunity grants under subpart 2;

"(II) work-study payments under part C; and

"(III) loans to students under part E;

made for such year to students who are in attendance at such institution. The Secretary shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

"If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Not over 1,000	50 percent.
Over 1,000 but not over 3,000	46 percent.
Over 3,000 but not over 10,000	42 percent.
Over 10,000	38 percent.

"(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

"(3)(A) In determining the number of students in attendance at institutions of higher education under this subsection, the Secretary shall compute the full-time equivalent of part-time students.

"(B) The Secretary shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

"(c) APPLICATIONS; CONTENTS AND MANNER OF FILING.—An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

"(1) set forth such policies, assurances, and procedures as will ensure that—

"(A) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

"(B) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(C) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 years preceding the year for which the grant is sought; and

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"(D) the applicant will submit to the Secretary such reports as the Secretary may require by regulation; and

"(2) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States.

"(d) APPORTIONMENT OF APPROPRIATIONS.—(1) The Secretary shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

"(2) Of the total sums appropriated to make payments on the basis of entitlements established under this section and to make payments under part D of title IX—

"(A) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(A) of subsection (a);

"(B) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(B) of subsection (a); and

"(C) 10 percent shall be available for making payments under part D of title IX.

"(3) No payments on the basis of entitlements established under paragraph (2)(A) of subsection (a) may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 percent of the appropriation necessary for satisfying the total of all entitlements established under such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2)(A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year.

"(e) LIMITATION ON APPROPRIATIONS.—No funds are authorized to be appropriated for this subpart for fiscal year 1987.

"VETERANS EDUCATION OUTREACH PROGRAM

20 USC 1070e-1.

"SEC. 420A. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) SIZE AND DURATION OF AWARDS.—(1) The minimum grant that may be awarded to an institution under this section is $1,000, which may remain available for expenditure over a period not to exceed 2 academic years.

"(2) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year;

38 USC 1500 *et seq.*
38 USC 1651 *et seq.*

"(B) $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs; and

38 USC 1690 *et seq.*, 1695 *et seq.*
38 USC 101.

"(C) $100 for each person who is in attendance at such institution as an undergraduate student during such year and who has received an honorable discharge from military service but who is no longer eligible to or does not receive educational benefits under chapter 31 or chapter 34 of title 38 of the United States Code.

38 USC 1500 *et seq.*, 1651 *et seq.*

"(3) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

"(4)(A) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. If the amount appropriated for any fiscal year is not sufficient to pay the amounts to which all such institutions are entitled, the Secretary shall ratably reduce such payments. If any amounts become available for a fiscal year after such reductions have been imposed, such reduced payments shall be increased on the same basis as they were reduced.

"(B) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, but not less than $1,000, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(5) Not less than 90 percent of the amounts paid to any institution under paragraph (3)(A) in any fiscal year shall be used to implement the requirement of subsection (c)(2)(C)(i), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 percent requirement shall be used for implementing the requirements of clauses (ii) through (v) of subsection (c)(2)(C), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

"(c) Eligibility for Awards.—(1) During the period beginning July 1, 1987, and ending September 1, 1991, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if the number of persons who are veterans with honorable discharges and are in attendance as undergraduate students at the institution is at least 100.

"(2) An institution of higher education shall be eligible to receive
100 STAT. 1350 the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

"(A) set forth such policies, assurances, and procedures as will ensure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 years preceding the year for which the grant is sought;

"(iv) the applicant will expend, during the academic year for which a payment is sought, for enhancing the functions of the Veterans Education Outreach Program, an amount equal to at least the amount of the award under this section from sources other than this or any other Federal program; and

"(v) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will ensure that the applicant will make an adequate effort—

"(i) to maintain an office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

38 USC 1690 *et seq.*

38 USC 1695 *et seq.*

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program for veterans, including dissemination of information regarding such program, with special emphasis on making maximum use of the benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this part with the readjustment counseling program authorized under section 612A of title 38, United States Code, and with the programs of veterans employment and training authorized under the Job Training Partnership Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

29 USC 1501 note.
38 USC 2000 *et seq.*, 2011 *et seq.*

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in clauses (i) through (v) of subparagraph (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of subparagraph (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(3) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of subparagraph (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(4) Any institution which has been eligible under this section prior to September 30, 1985, for a continuous period of three of the last five years shall be determined eligible under the terms of this section.

"(d) Coordination of Programs.—The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

"(e) Administration of Program.—The program provided for in this section shall be administered by an identifiable administrative unit in the Department.

"(f) Dissemination of Information.—From the amounts appropriated for this section, the Secretary shall retain one percent or $10,000, whichever is less, for the purpose of collecting information about exemplary Veterans Educational Outreach Programs and disseminating that information to other institutions of higher education having such programs on their campuses. Such collection and dissemination shall be done on an annual basis.

"SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

"SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

"Sec. 420B. (a) Program Authority.—Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

Grants.
20 USC 1070f.

"(b) Applications.—Any institution wishing to receive a grant under this section shall submit an application to the Secretary. Such application shall include—

"(1) a description of the program to be established;

"(2) assurances by the applicant to the Secretary that—

"(A) not less than two-thirds of the participants in the program are low-income individuals;

"(B) the remaining participants in the program are either low-income individuals;

"(C) the participants require the services to pursue a successful program of education beyond high school;

"(D) the participants are enrolled at the institution which is the recipient of the grant;

"(E) all participants will receive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enrollment; and

"(F) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

"(3) such information (and meet such conditions) as may be required by the Secretary.

"(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out the purpose of this section, $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) Definitions.—For the purpose of this subpart—

"(1) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.".

20 USC 1070a-1 note.

(b) Effective Dates.—(1) Except as provided in paragraph (2), sections 411A through 411F of the Act as amended by this section shall apply with respect to the determination of need for Pell Grants for academic years beginning with academic year 1988–1989. With respect to any preceding academic year, such determinations shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982.

20 USC 1001 note.

20 USC 1070a-1 note.

100 STAT. 1353

(2) The definition of independent student contained in section 411F(12) of the Act as amended by this section shall apply with respect to the determination of such need for academic years beginning with academic year 1987–1988.

20 USC 1070a note.

(3) Section 411(c) of the Act as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

20 USC 1070a note.

(4) Section 411(f) of the Act as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987.

20 USC 1070b-2 note.

(5) Section 413C(c)(2) of the Act as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act for periods of enrollment beginning on or after July 1, 1987.

20 USC 1070d-1b note.

(6) The changes made in section 417D of the Act shall apply with respect to grants awarded under such section in fiscal year 1988 or any succeeding fiscal year.

SEC. 402. EXTENSION OF GUARANTEED STUDENT LOAN PROGRAM.

(a) Amendment.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended to read as follows:

“Part B—Guaranteed Student Loan Program

“STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED

State and local governments.
Insurance.

“Sec. 421. (a) Purpose; Discrimination Prohibited.—

“(1) Purpose.—The purpose of this part is to enable the Secretary—

20 USC 1071.

“(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435),

“(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b),

“(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

“(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(B).

“(2) Discrimination by creditors prohibited.—No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

“(b) Authorization of Appropriations.—For the purpose of carrying out this part—

“(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

100 STAT. 1354

“(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

“(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

“(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

“(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

"ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

20 USC 1072.

"SEC. 422. (a) PURPOSE OF AND AUTHORITY FOR ADVANCES TO RESERVE FUNDS.—

"(1) PURPOSE; ELIGIBLE RECIPIENTS.—From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

100 STAT. 1355

"(2) MATCHING REQUIREMENT.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term 'unencumbered non-Federal portion' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

"(A) the sum of—

"(i) advances made under this section prior to July 1, 1968;

"(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

"(iii) the proceeds of earnings on advances made under this section; or

"(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

"(3) TERMS AND CONDITIONS; REPAYMENT.—Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

"(b) LIMITATIONS ON TOTAL ADVANCES.—

"(1) IN GENERAL.—The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

"(2) CALCULATION OF POPULATION.—For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

"(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

"(1) USE FOR PAYMENT OF INSURANCE OBLIGATIONS.—From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

100 STAT. 1356

"(2) AMOUNT OF ADVANCES.—(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

"(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

"(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

"(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

"(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

"(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

"(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

"(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

"(3) USE OF EARNINGS FOR INSURANCE OBLIGATIONS.—The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

"(4) REPAYMENT OF ADVANCES.—Advances made by the Secretary under this subsection shall, subject to subsection (d), be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 431.

100 STAT. 1357

"(5) LIMITATION ON NUMBER OF ADVANCES.—Advances pursuant to this subsection shall be made to a State—

"(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

"(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

"(6) PAYMENT OF ADVANCES WHERE NO STATE PROGRAM.—(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

"(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

"(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

"(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

"(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

"(d) RECOVERY OF ADVANCES DURING FISCAL YEARS 1988 AND 1989.—

"(1) AMOUNT AND USE OF RECOVERED FUNDS.—Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

"(2) DETERMINATION OF GUARANTY AGENCY OBLIGATIONS.—In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

"(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on the date of enactment of the Higher Education Amendments of 1986; 100 STAT. 1358

"(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

"(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on such date of enactment.

"EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

"SEC. 423. (a) FEDERAL INSURANCE BARRED TO LENDERS WITH ACCESS TO STATE OR PRIVATE INSURANCE.—Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b). 20 USC 1073.

"(b) EXCEPTIONS.—The Secretary may issue certificates of insurance under section 429 to a lender in a State—

"(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State);

"(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

"(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

"SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

"SEC. 424. (a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1992. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1997. 20 USC 1074.

"(b) APPORTIONMENT OF AMOUNTS.—The Secretary may, if he or she finds it necessary to do so in order to assure an equitable

100 STAT. 1359

distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

20 USC 1075.

"SEC. 425. (a) ANNUAL AND AGGREGATE LIMITS.—

"(1) ANNUAL LIMITS.—(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

"(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

"(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; or

"(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary).

"(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(2) AGGREGATE LIMITS.—(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

"(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education; and

"(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student).

"(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

"(b) LEVEL OF INSURANCE COVERAGE BASED ON DEFAULT RATE.—

"(1) REDUCTION FOR DEFAULTS IN EXCESS OF 5 OR 9 PERCENT.—(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

"(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as described in section 435(d)(1)(D) exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

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"(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

"(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 435(d)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

"(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(d)(1)(D) shall be--

State and local governments. Securities.

"(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

20 USC 1001 note.

"(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

"(2) COMPUTATION OF AMOUNTS IN REPAYMENT.—For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

"(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

"(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

"(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C); and

"(D) the original principal amount of loans repaid by the Secretary under section 437.

"(3) PAYMENTS TO ASSIGNEES.—For the purpose of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

"(4) PLEDGE OF FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

100 STAT. 1361

"SOURCES OF FUNDS

"SEC. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

20 USC 1076.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

"SEC. 427. (a) LIST OF REQUIREMENTS.—Except as provided in section 428C, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

20 USC 1077.

"(1) made to a student who (A) is an eligible student under section 484, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;

"(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

"(i) as provided in subparagraph (C);

"(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

"(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

100 STAT. 1362

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower (I) is pursuing a full-time course of study at an eligible institution, (II) is pursuing at least a half-time course of study (as determined by such institution) during an enrollment period for which the student has obtained a loan under this part, or (III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

Armed Forces.

"(ii) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

Voluntarism.

"(iii) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

22 USC 2501 note.

"(iv) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

42 USC 4951 note.

"(v) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

26 USC 501.

"(vi) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to section 428(b)(4);

"(vii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(ix) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(x) not in excess of 6 months of parental leave; or

"(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938, 29 USC 206.

and that any such period shall not be included in determining the 10-year period provided in subparagraph (B);

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 427A, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

"(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 437;

"(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

"(G)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations; and

"(H) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

"(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and

"(4) in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of more than $1,000, the proceeds of the loan will, subject to subsection (b), be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).

"(b) SPECIAL RULES FOR MULTIPLE DISBURSEMENT.—For the purpose of subsection (a)(4)—

"(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

"(2) the requirements of such subsection shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

"(c) MINIMUM REPAYMENT RATE.—The total of the payments by a 100 STAT. 1364 borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less.

"APPLICABLE INTEREST RATES

20 USC 1077a. "SEC. 427A. (a) RATES TO BE CONSISTENT FOR BORROWER'S ENTIRE DEBT.—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

"(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

"(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

"(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

"(b) REDUCTION FOR NEW BORROWERS AFTER DECLINE IN TREASURY BILL RATES.—If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

"(c) Rates for Supplemental Loans for Students and Loans for Parents.—

"(1) In general.—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428A or 428B on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

"(2) Reduction of rate after decline in Treasury bill rates.—If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

Securities.

"(3) Increase of rate after increase in treasury bill rates.—If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

"(4) Availability of variable rates.—(A) For any loan made pursuant to section 428A or 428B to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 428A(d) or 428B(d), the applicable rate of interest during any calendar year shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

"(B) For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

"(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

"(ii) 3.75 percent.

Federal Register, publication.

"(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

"(d) Interest Rates for New Borrowers After July 1, 1988.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B, and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

"(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

"(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

"(e) Treatment of Excess Interest Payments on New Borrower Accounts Resulting From Decline in Treasury Bill Rates.—

"(1) In general.—If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills

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auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

"(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

"(B) by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (3) of this subsection.

"(2) AMOUNT OF ADJUSTMENT.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

"(B) the outstanding principal balance of the loan (not including unearned interest added to principal) at the end of such calendar quarter; divided by

"(C) four.

"(3) ANNUAL ADJUSTMENT OF INTEREST AND BORROWER ELIGIBILITY FOR CREDIT.—Any adjustment amount computed pursuant to paragraph (2) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on the loan, or by reducing the number of payments that shall be made with respect to the loan.

"(4) PUBLICATION OF TREASURY BILL RATE.—For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

"(5) STUDY OF TREATMENT OF EXCESS INTEREST PAYMENTS PROVISIONS.—The Secretary shall examine and evaluate the provisions of this subsection, and not later than 6 months after the date of enactment of the Higher Education Amendments of 1986, prepare and submit to the Congress such legislative proposals as the Secretary determines are necessary to carry out the objectives of this subsection.

"(f) LESSER RATES PERMITTED.—Nothing in this section or section 428C shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

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"(g) DEFINITIONS.—For the purpose of subsections (a) and (d) of this section—

"(1) the term 'period of instruction' shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

"(2) the term 'period of enrollment' shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

"FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

"SEC. 428. (a) **FEDERAL INTEREST SUBSIDIES.**— 20 USC 1078.

"(1) **TYPES OF LOANS THAT QUALIFY.**—Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Secretary under this part; or

"(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

"(2) **ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.**—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

"(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(I) sets forth such student's estimated cost of attendance (as determined under section 472); and

"(II) sets forth such student's estimated financial assistance; and

"(ii) meet the requirements of subparagraph (B).

"(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part F of this title) and the amount of such need, subject to the provisions of subparagraph (D).

"(C) For the purpose of paragraph (1) and this paragraph— 100 STAT. 1368

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and 38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.

"(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which permits the student to receive any loan under this part in excess of the maximum amount applicable to such loan.

"(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 428A or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

"(F) Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part.

"(3) AMOUNT OF INTEREST SUBSIDY.—(A)(i) Subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

"(I) which accrues prior to the beginning of the repayment period of the loan, or

"(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C).

"(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

"(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

100 STAT. 1369

State and local governments.

"(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

"(B) If—

"(i) a State student loan insurance program is covered by an agreement under subsection (b),

"(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

"(iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns

20 USC 1001 note.

after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

"(4) SUBMISSION OF STATEMENTS BY HOLDERS ON AMOUNT OF PAYMENT.—Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

"(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1992, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 1997.

"(6) ASSESSMENT OF BORROWER'S FINANCIAL CONDITION NOT PROHIBITED OR REQUIRED.—Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

"(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

100 STAT. 1370

State and local governments.

"(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

"(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

"(i) $2,625, in the case of a student who has not successfully completed the first or second year of a program of undergraduate education;

"(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

"(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

"(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

"(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education; and

"(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student);

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

"(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

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"(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;

"(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 427A;

"(G) insures not less than 100 percent of the unpaid principal of loans insured under the program;

"(H) provides for collection of a single insurance premium equal to not more than 3 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

"(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a) (1) and (2);

"(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

State and local governments.

"(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

"(L) provides that the total of the payments by borrower—

"(i) during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less; and

"(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

"(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower (I) is pursuing a full-time course of study as determined by an eligible institution, (II) is pursuing at least a half-time course of study (as determined by such institution) for which the student has obtained a loan under this part, or (III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

Armed Forces.

"(ii) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

Voluntarism.
22 USC 2501 note.

"(iii) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

42 USC 4951 note.

"(iv) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

26 USC 501.

"(v) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

"(vii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(viii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(ix) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

"(x) not in excess of 6 months of parental leave; and "(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

29 USC 206.

"(N) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check;

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"(O) provides that the proceeds of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of more than $1,000—

"(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being dispensed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment), or

"(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for the purpose of this subparagraph and the requirements of this subparagraph shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States;

"(P) requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;

"(Q) provides for the guarantee of loans made to students and parents under sections 428A and 428B;

"(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

State and local governments.

"(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

"(T) provides no restrictions with respect to eligible institutions which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

"(i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or "(ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

State and local governments.

"(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.

"(2) CONTENTS OF INSURANCE PROGRAM AGREEMENT.—Such an agreement shall—

"(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

"(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

"(C) provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(D) provide for—

"(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit; and

31 USC 7501 *et seq.*

"(E) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency.

"(3) RESTRICTIONS ON INDUCEMENTS, MAILINGS, AND ADVERTISING.—A guaranty agency shall not—

"(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

"(B) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or

"(C) conduct fraudulent or misleading advertising concerning loan availability.

State and local governments.

"(4) Targeted teacher deferment rule.—(A) The deferment for service as a teacher in a public or nonprofit private elementary or secondary school shall be for service as such a teacher in shortage areas prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of the nonprofit private schools in each State in accordance with this subparagraph.

"(B) For the purpose of this paragraph, the term 'shortage areas' means (i) geographic areas of the State in which there is a shortage of elementary and secondary school teachers, and (ii) an area of shortage of elementary and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. In carrying out the provisions of this subparagraph, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages; and to States which have retirement laws permitting early retirement.

"(5) Special rule.—For the purpose of paragraph (1)(M) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.

"(6) Guaranty agency information transfers.—(A) Prior to the implementation of section 485B, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

"(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

"(i) the name and the social security number of the borrower; and

"(ii) the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower.

"(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

"(c) Guaranty Agreements for Reimbursing Losses.—

"(1) Authority to enter into agreements.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan, including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C). The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. In no case shall a guaranty agency file a claim under this subsection for re-

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imbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon.

"(B) Notwithstanding subparagraph (A)—

"(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess; and

"(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of the amount of such excess.

"(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

"(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

"(ii) the original principal amount of loans insured by it which have been fully repaid; and

"(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

"(2) CONTENTS OF GUARANTY AGREEMENTS.—The guaranty agreement—

"(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

"(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

State and local governments.

"(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

"(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

"(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 422(c);

"(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school; and

"(G) may include such other provisions as may be necessary to promote the purpose of this part.

"(3) FORBEARANCE.—To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.

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"(4) DEFINITIONS.—For the purpose of this subsection, the terms 'insurance beneficiary' and 'default' have the meanings assigned to them by section 435.

"(5) APPLICABILITY TO EXISTING LOANS.—In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

"(6) SECRETARY'S EQUITABLE SHARE.—(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

"(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(ii) an amount equal to 30 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related to the student loan insurance program, including the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) or (C) of this paragraph).

"(B) For the purpose of this paragraph and subsection (f) of this section, the term—

"(i) 'administrative costs of collection of loans' means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable;

"(ii) 'administrative costs of preclaim assistance for default prevention' means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable; and

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

"(C)(i) For the purpose of this paragraph, 'administrative costs of supplemental preclaims assistance' means (subject to divisions (ii) through (iv)) any administrative costs—

"(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under paragraph (2)(A) of this subsection and subsection (f), and which has been in delinquent status for at least 120 days; and

"(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

"(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f).

Contracts.

"(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

"(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan;

"(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan; or

"(III) that is an organization or entity that has a contract with a guaranty agency to perform collection activities with respect to the same loans in the event of default.

"(iv) The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.

State and local governments.

"(D) In the case of a State which enacts a garnishment law that complies with the requirements of section 428E, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'.

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"(7) New Programs Eligible for 100 Percent Reinsurance.—(A) Notwithstanding paragraph (1)(B), the amount to be paid a guaranty agency for any fiscal year—

"(i) which begins on or after October 1, 1977; and

"(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

"(B) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

"(8) Assignment to Protect Federal Fiscal Interest.—If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

"(9) Reinsurance Fees.—(A) Any guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall pay to the Secretary during each fiscal year a reinsurance fee in an amount equal to—

"(i) 0.25 percent of the total principal amount of the loans upon which insurance was issued by such agency during such fiscal year, in any fiscal year other than a fiscal year described in clause (ii); or

"(ii) 0.5 percent of the total principal amount of the loans upon which insurance was issued by such agency during such fiscal year, in any fiscal year with respect to which the Secretary reimbursed the agency for any losses (resulting from the default of the borrower) pursuant to paragraph (1)(B) of this subsection.

"(B) The amount to be paid pursuant to subparagraph (A) may be paid from any funds available to the guaranty agency.

"(C) When the Secretary first reimburses a guaranty agency pursuant to paragraph (1)(B) of this subsection, the Secretary shall notify such agency of the exact date of such reimbursement.

"(d) Usury Laws Inapplicable.—No provision of any law of the United States (other than this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

"(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

"(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

"(e) **Payments for Lender Referral Services.**—

State and local governments.

"(1) **In general.**—The Secretary shall make payments in accordance with this paragraph to a guaranty agency in any State which provides a lender referral service for students who meet the requirements of paragraph (2).

"(2) **Student eligibility.**—A student is eligible to apply for lender referral services to a guaranty agency in a State if—

"(A) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and

"(B) such student has sought and was unable to find a lender willing to make a loan under this part.

"(3) **Amount of payment.**—The amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

"(4) **Incentive fees to lenders.**—Nothing in this or any law shall prohibit an agency from using all or any portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a lender referral service.

"(5) **Authorization of appropriations.**—There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.

"(f) **Payments of Certain Costs.**—

"(1) **Payments based on insurance program agreement.**—(A) The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

"(i) the administrative cost of promotion of commercial lender participation;

"(ii) the administrative costs of collection of loans;

"(iii) the administrative costs of preclaims assistance for default prevention;

"(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

"(v) other such costs related to the student loan insurance program subject to such agreement.

"(B) The total amount of payments for any fiscal year made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

"(2) **Applications for payments.**—No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with

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subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1);

"(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

"(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

"(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

"(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require, to carry out the provisions of this subsection.

State and local governments.

"(g) Action on Insurance Program and Guaranty Agreements.—If a nonprofit private institution or organization—

"(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and

"(2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii),

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

State and local governments.

"(h) Lending by Guaranty Agencies.—

"(1) Lending from sallie mae advances.—From sums advanced by the Association pursuant to section 439(p), each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2) Amount of advances.—(A) Each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

"(B) Each guaranty agency and each eligible lender in a State described in section 435(d)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered into between the Association and such agency or lender.

"(3) Loan term, conditions, and benefits.—Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

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"(i) Multiple Disbursement of Loans.—

State and local governments.

"(1) Escrow accounts administered by escrow agent.—Any guaranty agency or eligible lender (hereafter in this subsection referred to as the 'escrow agent') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the 'lender') for the purpose of authorizing multiple disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 45 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

"(2) AUTHORITY OF ESCROW AGENT.—Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

State and local governments.

"(j) LENDERS-OF-LAST-RESORT.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200.

"(k) INFORMATION ON DEFAULTS.—

"(1) PROVISION OF INFORMATION TO ELIGIBLE INSTITUTIONS.—In order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency may, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection may include the names and addresses of such students.

100 STAT. 1384

"(2) PUBLIC DISSEMINATION NOT AUTHORIZED.—Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

"SUPPLEMENTAL LOANS FOR STUDENTS

20 USC 1078-1.

"SEC. 428A. (a) AUTHORITY TO BORROW.—Graduate and professional students (as defined by regulations of the Secretary) and undergraduate independent students shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), loans under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulation by the Secretary) is $4,000.

Insurance.

"(2) Aggregate limit.—The aggregate insured principal amount for insured loans made to any student under this section, exclusive of interest capitalized under subsection (c), shall not exceed $20,000.

"(3) Limitation based on need.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loans may be made to any student under this section which would cause the student's combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of the student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

"(c) Payment of Principal and Interest.—

"(1) Commencement of repayment.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M).

"(2) Capitalization of interest.—Interest on loans made under this section for which payments of principal and interest are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i) shall, if agreed upon by the borrower and the lender (A) be paid quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(3) Subsidies prohibited.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(4) Applicable rates of interest.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

"(5) Amortization.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually, or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

"(d) Refinancing.—

"(1) Refinancing to secure combined payment.—An eligible lender may consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the borrower complies with the requirements of paragraph (2), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

"(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan, not more than one-half of which shall be paid to the guarantor of the loan being reissued to recover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

"(3) REFINANCING BY DISCHARGE OF PREVIOUS LOAN.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

"(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

"(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B)); 100 STAT. 1386

"(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

"(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

"(4) CERTIFICATION IN LIEU OF PROMISSORY NOTE PRESENTATION.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

"(5) NOTIFICATION TO BORROWERS OF AVAILABILITY OF REFINANCING OPTIONS.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than January 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

"(A) of the refinancing options for which the borrower is eligible under this subsection;

"(B) of those options which will be made available by the holder; and

"(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

"PLUS LOANS

"SEC. 428B. (a) AUTHORITY TO BORROW.—Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section, but such a parent borrower shall not be eligible for any deferment pursuant to section 20 USC 1078-2.

427(a)(2)(C) or 428(b)(1)(M) except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections.

"(b) LIMITATIONS ON AMOUNTS OF LOANS.—

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation of the Secretary) is $4,000.

"(2) AGGREGATE LIMIT.—The aggregate insured principal amount for insured loans made to parents on account of a student shall not exceed $20,000.

"(3) LIMITATION BASED ON NEED.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

100 STAT. 1387

"(c) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral pursuant to sections 427(a)(2)(C) (i), (viii), and (ix) and 428(b)(1)(M) (i), (viii), and (ix).

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal and interest are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i) shall, if agreed upon by the borrower and the lender (A) be paid quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

"(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

"(A) the amount of the periodic payment will be adjusted annually, or

"(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

"(d) REFINANCING.—

"(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the borrower complies with the requirements of paragraph (2), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

"(2) Refinancing to secure variable interest rate.—An eligible lender may reissue a loan which was made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

"(3) Refinancing by discharge of previous loan.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

"(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

"(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

"(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

"(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

"(4) Certification in lieu of promissory note presentation.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

"(5) Notification to borrowers of availability of refinancing options.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than January 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

"(A) of the refinancing options for which the borrower is eligible under this subsection;

"(B) of those options which will be made available by the holder; and

"(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

"CONSOLIDATION LOANS

"Sec. 428C. (a) Agreements With Eligible Lenders.— 20 USC 1078-3.

"(1) Agreement required for insurance coverage.—For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

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"(A) the Student Loan Marketing Association;

"(B) State agencies described in subparagraphs (D) and (F) of section 435(d)(1); and

"(C) other eligible lenders described in subparagraphs (A), (B), (C), and (E) of such section.

Contracts.

"(2) Insurance coverage of consolidation loans.—Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such agency.

"(3) Definition of eligible borrower.—(A) For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

"(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $5,000;

"(ii) is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days; and

"(iii) is not a parent borrower under section 428B.

"(B) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to loans received under this title after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this part, be counted against the applicable limitations on aggregate indebtedness contained in sections 425(a)(2) and 428(b)(1)(B).

"(4) Definition of eligible student loans.—For the purpose of paragraph (1), the term 'eligible student loans' means loans—

"(A) made, insured, or guaranteed under this part;

"(B) made under part E of this title; or

"(C) made under subpart II of part C of title VII of the Public Health Service Act.

42 USC 294m.

"(b) Contents of Agreements, Certificates of Insurance, and Loan Notes.—

"(1) Agreements with lenders.—Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

"(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

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"(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

"(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(2), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all loans received by the eligible borrower under this title which are selected by the borrower for consolidation;

"(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

"(E) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

"(2) ISSUANCE OF CERTIFICATE OF COMPREHENSIVE INSURANCE COVERAGE.—The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

"(3) CONTENTS OF CERTIFICATE.—A certificate issued under paragraph (2) shall, at a minimum, provide—

"(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

"(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

"(i) that the loan is a legal, valid, and binding obligation of the borrower;

"(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

"(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

"(C) the effective date and expiration date of the certificate;

"(D) the aggregate amount to which the certificate applies;

"(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions; 100 STAT. 1391

"(F) the alternative repayment terms which will be offered to borrowers by the lender;

"(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

"(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

"(4) Terms and conditions of loans.—A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

"(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;

"(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

"(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

"(c) Payment of Principal and Interest.—

"(1) Interest rates.—(A) Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B) or (C). For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

"(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

"(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.
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"(2) Repayment schedules.—(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which may include the establishment of graduated or income sensitive repayment schedules. Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

"(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

"(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

"(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

"(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or "(v) is more than $45,000, then such consolidation loan shall be repaid in not more than 25 years.

"(B) Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).

"(C) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

"(3) ADDITIONAL REPAYMENT REQUIREMENTS.—Notwithstanding paragraph (2)—

"(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment equal to not less than the accrued unpaid interest; and

"(B) the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

"(4) COMMENCEMENT OF REPAYMENT.—Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

"(5) INSURANCE PREMIUMS PROHIBITED.—No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan.

"(d) TERMINATION OF AUTHORITY.—The authority to make loans under this section expires at the close of September 30, 1992. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 424(a).

"COMMINGLING OF FUNDS

"SEC. 428D. Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that— 20 USC 1078-4.

"(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

"(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

"STATE GARNISHMENT LAW REQUIREMENTS

"SEC. 428E. (a) REQUIREMENTS FOR ADDITIONAL COST PAYMENTS.—A garnishment law complies with the requirements of this section if such law— 20 USC 1078-5.

"(1) provides that the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved;

"(2) provides the individual with a minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under such law;

"(3) provides the individual with an opportunity to inspect and copy records relating to the debts;

"(4) provides the individual with an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt;

"(5) provides the individual with an opportunity for a hearing in accordance with subsection (b) on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule, but does not permit additional administrative or judicial procedures that would delay collection of the debt (such as reduction of the debt to a judgment);

"(6) provides that the employer will be held liable to the agency for any amount which such employer fails to withhold from wages due an employee following receipt by such employer of proper notice under paragraph (2), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph; and

"(7) provides for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any individual subject to wage withholding required by this section because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

100 STAT. 1394

"(b) Hearing Requirements.—A hearing described in subsection (a)(5) shall be provided if the individual, on or before the 15th day following receipt of the notice described in subsection (a)(2), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(c) Notice Requirements.—The notice given to the employer pursuant to subsection (a)(2) shall contain only such information as may be necessary for the employer to comply with the withholding order.

"(d) Definition.—For the purpose of this section, the term 'disposable pay' means that part of pay of any individual remaining after the deduction of any amounts required by law to be withheld.

"REHABILITATION OF DEFAULTED LOANS

20 USC 1078-6.

"Sec. 428F. (a) Authority To Establish Pilot Program.—The Secretary shall, in accordance with the requirements of this section, establish a pilot program to test the feasibility of rehabilitating defaulted loans under this part. Such pilot program shall be commenced within 3 months after the date of enactment of this section and shall be completed not later than 3 years after such date. The Secretary shall submit a report on the results of such pilot program within 3 months after its completion.

"(b) Eligibility for Pilot Program.—The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized.

"(c) METHOD OF REHABILITATION.—

"(1) SALE OF LOAN PURSUANT TO AGREEMENT.—Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under section 428(c)(1), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the rehabilitated loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

"(2) TERMS OF AGREEMENT.—Such agreement between the guaranty agency and the Secretary shall provide—

"(A) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale multiplied by a percentage amount equal to the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(B) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of the rehabilitated loan a special allowance pursuant to section 438.

"(3) PROCEEDS OF SALES OFFSET AGAINST DEFAULT CLAIMS.—Amounts received by the Secretary pursuant to the sale of rehabilitated loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of claims for reimbursement filed by the agency under section 428(c)(1) for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

"(4) EFFECT OF REHABILITATION ON BORROWER ELIGIBILITY.—Any borrower whose loan is rehabilitated under this subsection shall not be precluded by section 484 from receiving additional assistance under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to rehabilitation.

"(5) APPLICABILITY OF OTHER TERMS, CONDITIONS, AND BENEFITS.—A loan which is rehabilitated under this paragraph shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

"CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

"SEC. 429. (a) LOAN-BY-LOAN INSURANCE.— 20 USC 1079.

"(1) AUTHORITY TO ISSUE CERTIFICATES ON APPLICATION.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) EFFECTIVENESS OF CERTIFICATE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

"(3) CONTENTS OF APPLICATIONS.—An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation. 100 STAT. 1396

"(b) COMPREHENSIVE INSURANCE COVERAGE CERTIFICATE.—

"(1) ESTABLISHMENT OF SYSTEM BY REGULATION.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) UNCOVERED LOANS.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

"(c) CHARGES FOR FEDERAL INSURANCE.—The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

"(d) **Assignability of Insurance.**—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

"(e) **Consolidation Not To Affect Insurance.**—The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

20 USC 1080.

"Sec. 430. (a) **Notice to Secretary and Payment of Loss.**—Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The 'amount of the loss' on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

"(b) **Effect of Payment of Loss.**—Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies,

Contracts.

100 STAT. 1398 for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

"(c) FORBEARANCE NOT PRECLUDED.—Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

"(d) CARE AND DILIGENCE REQUIRED OF HOLDERS.—Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

"REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

20 USC 1080a.

"SEC. 430A. (a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

15 USC 1681 note.

"(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans; 100 STAT. 1399

"(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

"(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

"(b) Additional Information.—Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

"(c) Contents of Agreements.—Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

"(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

"(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(d) Contractor Status of Participants.—A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

"(e) Disclosure to Institutions.—The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and 100 STAT. 1400 (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended.

Report.

"(f) Duration of Authority.—Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

"(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty, or

"(2) with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date.

"INSURANCE FUND

20 USC 1081. "SEC. 431. (a) ESTABLISHMENT.—There is hereby established a student loan insurance fund (hereinafter in this section called the 'fund') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 422(c)(4)(C), and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

"(b) BORROWING AUTHORITY.—If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second 31 USC 774. Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include 100 STAT. 1401 any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"LEGAL POWERS AND RESPONSIBILITIES

20 USC 1082. "SEC. 432. (a) GENERAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

"(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the

Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

Contracts.

"(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing on the record, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

"(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

"(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 428(c); and

"(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

"(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part—

31 USC 9101 *et seq.*

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

Insurance.

"(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

"(c) DATA COLLECTION.—

"(1) COLLECTION BY CATEGORY OF LOAN.—(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

"(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

"(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

"(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

Report.

"(2) Collection and reporting requirements.—(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

Insurance.

"(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

"(3) Institutional, public, or nonprofit lenders.—For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

"(d) Delegation.—

"(1) Regional offices.—The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

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Insurance.
Contracts.

"(2) Delegable functions.—The functions which may be delegated pursuant to this subsection are—

"(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

"(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

Claims.

"(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

"(e) Use of Information on Borrowers.—Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

"(f) Audit of Financial Transactions.—

"(1) Comptroller General and Inspector General authority.—The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

"(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 428(b);

"(B) any eligible lender as defined in section 435(d)(1) (D), (F), or (H);

"(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 438 in order to evaluate the program authorized by this part; and

"(D) any Authority required to file a plan for doing business under section 438(d).

"(2) ACCESS TO RECORDS.—For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, United States Code, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General. 5 USC app.

"(3) DEFINITION OF RECORDS.—For the purpose of this subsection, the term 'record' includes any information, document, report, answer, account, paper, or other data or documentary evidence.

"(g) CIVIL PENALTIES.—

"(1) AUTHORITY TO IMPOSE PENALTIES.—Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

"(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

"(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(2) LIMITATIONS.—No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

"(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial representation;

"(ii) gross negligence; or

"(iii) willful actions on the part of the lender or guaranty agency; and

"(B) the violation, failure, or substantial representation is material.

"(3) CORRECTION OF FAILURE.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

"(4) CONSIDERATION AS SINGLE VIOLATION.—For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

"(5) ASSIGNEES NOT LIABLE FOR VIOLATIONS BY OTHERS.—If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

"(6) COMPROMISE.—Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

"(h) AUTHORITY OF THE SECRETARY TO IMPOSE AND ENFORCE LIMITATIONS, SUSPENSIONS, AND TERMINATIONS.—

"(1) IMPOSITION OF SANCTIONS.—(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

"(i) has substantially failed—

"(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

"(II) to make the reports or statements under section 428(a)(4), or

"(III) to pay the required loan insurance premiums to any guaranty agency, or

"(ii) has engaged in—

"(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

Insurance.

"(II) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

"(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

"(i) exercise the necessary care and diligence,

"(ii) comply with the requirements described in subparagraph (A)(i), or

"(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

"(2) REVIEW OF SANCTIONS ON LENDERS.—(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(U) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(3) REVIEW OF SANCTIONS ON ELIGIBLE INSTITUTIONS.—(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(T) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

"(i) if such review is waived; or

"(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

"(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

"(i) AUTHORITY TO SELL DEFAULTED LOANS.—In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

"STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

"SEC. 433. (a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part, provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include— 20 USC 1083.

"(1) the name of the eligible lender, and the address to which communications and payments should be sent;

"(2) the principal amount of the loan;

"(3) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

"(4) the stated interest rate on the loan;

"(5) the yearly and cumulative maximum amounts that may be borrowed;

"(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(7) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

"(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;

"(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

"(11) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

"(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

"(b) Required Disclosure Before Repayment.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosure shall include—

"(1) the name of the eligible lender, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

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"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

"(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options;

"(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

"(c) COST OF DISCLOSURE AND CONSEQUENCES OF NONDISCLOSURE.—Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

Claims.
Contracts.

15 USC 1601 note.

"(d) SEPARATE STATEMENT.—Each eligible lender shall, at the time such lender makes the first disbursement of a loan with respect to a borrower which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

"PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

"SEC. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(B).

20 USC 1084.

"DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

"SEC. 435. As used in this part:

20 USC 1085.

"(a) ELIGIBLE INSTITUTION.—

100 STAT. 1409

"(1) IN GENERAL.—The term 'eligible institution' means—

"(A) an institution of higher education;

"(B) a vocational school; or

"(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1), 428A, or 428B at that institution or school.

"(2) FOREIGN MEDICAL SCHOOLS.—For the purpose of qualifying an institution under paragraph (1)(C) of this subsection, the Secretary shall establish criteria by regulation. In the case of a graduate medical school outside the United States, such criteria shall include a requirement that a student attending a medical school is ineligible for loans made, insured, or guaranteed under this part unless at least 60 percent of the students enrolled in such school are nationals of the country in which the school is located. A school that is unable to meet that criteria may establish the eligibility of its students for such loans if the

United States nationals attending such school achieve a pass rate on the examinations administered by the Educational Commission for Foreign Medical Graduates that is—

"(A) not less than 45 percent for students taking such examination in the first and second years after the date of enactment of the Higher Education Amendments of 1986; and

"(B) not less than 50 percent for students taking such examination in any subsequent year.

"(b) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance;

"(2) is legally authorized within such State to provide a program of education beyond secondary education;

"(3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree;

"(4) is a public or other nonprofit institution; and

"(5) is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited—

"(A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or

"(B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of paragraph (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, the Secretary shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of paragraph (5) meet those standards. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authorities as to the quality of training offered.

"(c) VOCATIONAL SCHOOL.—The term 'vocational school' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

"(1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit (as determined by the institution under section 481(d)) from the training offered by such institution;

"(2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

"(3) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

"(4) is accredited—

"(A) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph;

"(B) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this paragraph; and

"(C) if the Secretary determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards.

For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded. 100 STAT. 1411

"(d) ELIGIBLE LENDER.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) through (5), the term 'eligible lender' means—

"(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, a trust company, or a credit union which—

"(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

"(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;

"(B) a pension fund as defined in the Employee Retirement Income Security Act;

"(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

"(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

"(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

"(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

"(G) for purposes of making loans under sections 428A(d), 428B(d), 428C, and 439(q), the Student Loan Marketing Association;

"(H) for purposes of making loans under sections 428(h) and 428(j), a guaranty agency; and

"(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)).

"(2) ADDITIONAL REQUIREMENTS OF ELIGIBLE INSTITUTIONS.—To be an eligible lender under this part, an eligible institution—

"(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution; and

"(B) shall not be a home study school.

"(3) DISQUALIFICATION FOR HIGH DEFAULT RATES.—The term 'eligible lender' does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in section 435(o). 100 STAT. 1412

"(4) WAIVER OF DISQUALIFICATION.—Whenever the Secretary determines that—

"(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

"(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

"(5) DISQUALIFICATION FOR USE OF CERTAIN INCENTIVES.—The term 'eligible lender' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after the date of enactment of this paragraph—

"(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

"(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

"(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

"(D) engaged in fraudulent or misleading advertising.

"(e) LINE OF CREDIT.—The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(f) DUE DILIGENCE.—The term 'due diligence' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

"(g) TEMPORARILY TOTALLY DISABLED.—

"(1) IN GENERAL.—The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed 3 years.

"(2) DISABLED DEPENDENT OF A BORROWER.—Such term when used with respect to the disabled dependent of a single parent borrower means a dependent who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services.

"(3) DETERMINATIONS.—The determination that a borrower, or dependent of the borrower is temporarily totally disabled must be established by a sworn affidavit of a qualified physician.

"(h) DEFINITION OF PARENTAL LEAVE.—The term 'parental leave' means a period—

"(1) during which the borrower is pregnant, caring for his or her newborn child, or caring for his or her child immediately following the placement of the child through adoption;

"(2) during which such borrower is not in attendance at an eligible institution or gainfully employed; and

"(3) which follows, by 6 months or less, a period during which the borrower was enrolled in at least a half-time course of study at an eligible institution.

"(i) HOLDER.—The term 'holder' means an eligible lender who owns a loan.

"(j) GUARANTY AGENCY.—The term 'guaranty agency' means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b).

"(k) INSURANCE BENEFICIARY.—The term 'insurance beneficiary' means the insured or its authorized representative assigned in accordance with section 429(d).

"(l) DEFAULT.—The term 'default' includes only such defaults as have existed for (1) 180 days in the case of a loan which is repayable in monthly installments, or (2) 240 days in the case of a loan which is repayable in less frequent installments.

"DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

20 USC 1086.

"SEC. 436. (a) AUTHORITY.—The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

"(b) BINDING EFFECT ON MINORS.—Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

"(c) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

100 STAT. 1414

"REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

20 USC 1087.

"SEC. 437. (a) REPAYMENT IN FULL.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) REPAYMENT OF AMOUNT DISCHARGED.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Secretary shall repay the amount of the loan so discharged.

"SPECIAL ALLOWANCES

20 USC 1087-1.

"SEC. 438. (a) FINDINGS.—In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

"(b) COMPUTATION AND PAYMENT.—

"(1) QUARTERLY PAYMENT BASED ON UNPAID BALANCE.—A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2) RATE OF SPECIAL ALLOWANCE.—(A) Subject to subparagraphs (B), (C), and (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.25 percent to the resultant percent, and (iv) by dividing the resultant percent by 4.

"(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this division, subparagraph (A)(iii) shall be applied by substituting '3.5 percent' for '3.25 percent'. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

20 USC 1 *et seq.*

100 STAT. 1415

"(ii) The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (c) of this section.

"(C) In the case of loans made pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12.5 percent.

"(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting '3.5 percent' for '3.25 percent'.

"(ii) For the purpose of division (i) of this subparagraph, the term 'qualified State obligation' means—

"(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

"(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

"(3) CONTRACTUAL RIGHT OF HOLDERS TO SPECIAL ALLOWANCE.—The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

"(4) PENALTY FOR LATE PAYMENT.—(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

"(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

100 STAT. 1416

Reports.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"(5) DEFINITION OF ELIGIBLE LOAN.—As used in this section, the term 'eligible loan' means a loan—

"(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 428(a);

"(ii) which is made under section 428A, 428B, 428C, or 439(o); or

"(iii) which was made prior to October 1, 1981; and

"(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

"(6) REGULATION OF TIME AND MANNER OF PAYMENT.—The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) ORIGINATION FEES.—

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

"(2) AMOUNT OF ORIGINATION FEES.—With respect to any loan (other than loans made under sections 428A, 428B, 428C, and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

"(3) RELATION TO APPLICABLE INTEREST.—Such origination fee shall not be taken into account for purposes of determining

compliance with section 427A.

"(4) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

"(5) PROHIBITION ON DEPARTMENT COMPELLING ORIGINATION FEE COLLECTIONS BY LENDERS.—Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 428(a)(3)(A) or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before the enactment of this paragraph, together with interest thereon.

"(d) LENDING FROM PROCEEDS OF TAX EXEMPT OBLIGATIONS.—

State and local governments.

26 USC 1 *et seq.*

"(1) PLAN FOR DOING BUSINESS REQUIRED.—In order for the holders of loans any portion of which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Governor of the State, and to the guaranty agency determined by the Secretary to be the principal guaranty agency for the State, a plan for doing business. The Governor shall, after consultation with the guaranty agency, approve or disapprove the plan within 30 days of the receipt of the proposed plan from the Authority. Such plan shall also be transmitted to the Secretary within 60 days after approval.

"(2) CONTENTS OF PLAN.—Each such plan shall contain provisions designed to assure that—

"(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

"(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

"(C) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

"(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

"(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

"(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

100 STAT. 1418

"(3) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

26 USC 1 *et seq.*

"(4) REPORT BY THE SECRETARY.—The Secretary shall, no later than September 30, 1988, and each succeeding September 30th, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate specifying—

"(A) the amount of student loan credit provided through the use of tax-exempt obligations for the most recent fiscal year;

"(B) an assessment of the impact of the availability of such financing on the availability of student credit in the areas served by the authorities issuing such obligations;

"(C) an assessment of the need for additional tax-exempt financing for student credit for the next fiscal year, as evidenced by the information submitted under paragraph (2)(G) of this subsection; and

"(D) any other information determined by the Secretary to be relevant to the purposes of the report.

"(e) REGULATIONS TO PREVENT DENIAL OF LOANS TO ELIGIBLE STUDENTS.—The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

"STUDENT LOAN MARKETING ASSOCIATION

20 USC 1087-2.

"SEC. 439. (a) PURPOSE.—The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

Insurance.

"(b) ESTABLISHMENT.—

District of Columbia.

"(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

100 STAT. 1419

"(2) EXEMPTION FROM STATE AND LOCAL TAXES.—The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(3) APPROPRIATIONS AUTHORIZED FOR ESTABLISHMENT.—There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

"(c) BOARD OF DIRECTORS.—

"(1) BOARD MEMBERSHIP.—The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(2) INTERIM BOARD.—An interim Board of Directors shall be appointed by the President, one of whom he shall designate an interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(3) **Regular board.**—When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public. 100 STAT. 1420

"(4) **Succession of regular board.**—At the time the events described in paragraph (3) have occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(5) **Terms of appointed and elected members.**—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(6) **Meetings and functions of board.**—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"(d) **Authority of Association.**—

"(1) **In general.**—The Association is authorized, subject to the provisions of this section—

"(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

"(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 435(d)(1) (D) or (F);

"(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;

Insurance.

"(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 428, and except with respect to loans under subsection (o) of this section or under section 428C, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

100 STAT. 1421

"(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

"(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

"(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

"(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

Securities.

"(2) WAREHOUSING ADVANCES.—Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

State and local governments.

"(3) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts. 100 STAT. 1422

"(4) FORM OF SECURITIES.—Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

"(5) RESTRICTIONS ON FACILITIES AND HOUSING ACTIVITIES.—Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

"(e) ADVANCES TO LENDERS THAT DO NOT DISCRIMINATE.—The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin. Securities.

"(f) STOCK OF THE ASSOCIATION.—

"(1) COMMON STOCK TO INSURED LENDERS AND ELIGIBLE INSTITUTIONS ONLY.—The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

"(2) VOTING RIGHTS.—Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call. 100 STAT. 1423

"(5) NONVOTING COMMON STOCK.—The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.

"(g) Preferred Stock.—

"(1) Authority of board.—The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(2) Rights of preferred stock.—The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) Preference on termination of business.—In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"(h) Debt Obligations.—

"(1) Approval by secretaries of education and the treasury.—The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1) (B) and (C) of this section and as to which the income is exempt from taxation under the Internal Revenue Code of 1954 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of the Internal Revenue Code of 1954.

26 USC 1 et seq.

26 USC 265.

"(2) Guarantee of debt.—The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

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"(3) Borrowing authority to meet guarantee obligations.—To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"(4) ACTION ON REQUEST FOR GUARANTEES.—Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

Securities.

"(5) AUTHORITY OF TREASURY TO PURCHASE DEBT.—The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

31 USC 774.

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"(6) SALE OF DEBT TO FEDERAL FINANCING BANK.—Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

"(i) GENERAL CORPORATE POWERS.—The Association shall have power—

"(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

"(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"(j) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

100 STAT. 1426

Report.

"(k) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

"(l) LAWFUL INVESTMENT INSTRUMENTS; EFFECT OF AND EXEMPTIONS FROM OTHER LAWS.—All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31, United States Code. For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31, United States Code, shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

Securities.

12 USC 355.

"(m) **Preparation of Obligations.**—In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

"(n) **Report on Operations and Activities.**—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"(o) **Loan Consolidations.**—

"(1) **In general.**—The Association or its designated agent may, upon request of a borrower, consolidate loans received under this title in accordance with section 428C.

"(2) **Use of existing agencies as agent.**—The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

State and local governments.

"(p) **Advances for Direct Loans by Guaranty Agencies.**—

"(1) **In general.**—The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 428(h) and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

"(2) **Limitation.**—No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

State and local governments.

"(q) **Lender of Last Resort.**—

"(1) **Action at request of secretary.**—(A) Whenever the Secretary determines that eligible borrowers in a State not served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

Insurance.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

State and local governments.

"(2) **Issuance and coverage of loans.**—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

State and local governments.

"(3) **Termination of lending.**—The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

20 USC 1071 note.

(b) **Effective Dates.**—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;

(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clause (ix) of each such section) shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date;

(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act shall apply with respect only to loans made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act shall apply with respect only to loans made to

cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(5) the changes in section 428(b)(1)(H) shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

(6) the changes in sections 435(d)(5) and 438(d) of the Act shall take effect 30 days after the date of enactment of this Act; and

(7) the changes made in section 438(b) shall take effect with respect to loans made to cover the costs of instruction for 100 STAT. 1429 periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

20 USC 1071 note.

(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REPUBLICATION OF REGULATIONS.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

20 USC 1071 note.

(d) NEW BORROWERS.—For the purpose of this section, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act.

SEC. 403. WORK STUDY REAUTHORIZED.

(a) AMENDMENT.—Part C of title IV of the Act is amended to read as follows:

"PART C—WORK-STUDY PROGRAMS

"PURPOSE; APPROPRIATIONS AUTHORIZED

42 USC 2751.

"SEC. 441. (a) PURPOSE.—The purpose of this part is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $656,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"ALLOCATION OF FUNDS

42 USC 2752.

"SEC. 442. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 441(b) for each fiscal year, the Secretary shall first allocate to each eligible institution for each succeeding fiscal year, an amount equal to 100 percent of the amount such institution received and used under this part for fiscal year 1985.

"(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

"(i) $5,000; or

"(ii) 90 percent of the amount received and used under this part for the first year it participated in the program.

"(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

"(i) $5,000;

"(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III)

100 STAT. 1430 the number of students enrolled at the applicant institution in such fiscal year; or

"(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

"(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

"(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

"(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

"(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

"(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

"(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

"(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 441(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

"(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 441(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 441(b) for the fiscal year; exceeds

"(B) the amount required to be allocated to that institution under subsection (a).

"(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of 100 STAT. 1431 an institution's need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

"(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 25 percent of the average cost of attendance for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) for each income category of dependent students; and

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G).

"(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988-1989 shall use the procedures employed for academic year 1986-1987, and, for any subsequent academic years, the Secretary shall—

"(A) establish various income categories of graduate and professional students;

"(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) determine the average cost of attendance for all graduate and professional students;

"(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero; 100 STAT. 1432

"(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category; and

"(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

"(4)(A) For purposes of paragraphs (2) and (3), the term 'average cost of attendance' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

"(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

"(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

"(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

"(e) Reallocation of Excess Allocations.—(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall reallocate such excess in accordance with paragraph (2). Any sums reallocated under this subsection may be used in accordance with section 445(a)(2).

"(2) The Secretary shall reallot 25 percent of the amount available pursuant to paragraph (1) to eligible institutions for use in initiating, improving, and expanding programs of community service-learning conducted in accordance with section 448 of this part. The Secretary shall allocate the remainder of the amounts available pursuant to paragraph (1) to eligible institutions based upon the criteria described in subsection (c).

"(f) Filing Deadlines.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"GRANTS FOR WORK-STUDY PROGRAMS

42 USC 2753.

"Sec. 443. (a) Agreements Required.—The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

"(b) Contents of Agreements.—An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the

100 STAT. 1433

institution itself or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

Contracts.

"(A) will not result in the displacement of employed workers or impair existing contracts for services;

"(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938; 29 USC 206.

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that—

"(A) an institution may use not to exceed 10 percent of the funds granted to the institution in any fiscal year to carry out the work study program described in section 447 at the increased Federal share specified in clause (6)(B) of this subsection, and

"(B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 446 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F of this title, and who meet the requirements of section 484 will be assisted, except that, if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's grant shall be made available to such students;

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;

"(5) provide that the Federal share of the compensation of students employed in the work study program in accordance with the agreement will not exceed 80 percent for academic years 1987-1988 and 1988-1989, 75 percent for academic year 1989-1990, and 70 percent for academic year 1990-1991 and succeeding academic years, except that—

"(A) the Federal share may exceed such amounts of such compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part; and

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"(B) the Federal share of the compensation of the students employed in the work study for community service-learning programs described in section 447 from funds available under clause (2)(A) in accordance with the agreement will not exceed 90 percent of such compensation;

"(6) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

"(7) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part;

"(8) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part who are employed by the institution may be employed in jobs—

"(A) on campus only;

"(B) that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students; and

"(C) furnishing student services, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; and

"(9) include such other reasonable provisions as the Secretary shall deem necessary or appropriate to carry out the purpose of this part.

"(c) **Private Sector Employment Agreement.**—In addition to the agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

"(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1);

"(2) provide that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

"(3) provide that, notwithstanding subsection (b)(5), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years 1987-1988 and 1988-1989, 55 percent for academic year 1989-1990, and 50 percent for academic year 1990-1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization in which the student is employed;

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"(4) provide that jobs under the work study program will be academically relevant; and

"(5) provide that the for-profit organization will not use funds made available under this part to pay any employee who would otherwise be employed by the organization.

"SOURCES OF MATCHING FUNDS

20 USC 2754.

"Sec. 444. Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

"FLEXIBLE USE OF FUNDS

42 USC 2755.

"Sec. 445. (a) **Carry-Over Authority.**—(1) Of the sums granted to an eligible institution under this part for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part.

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"(2) Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

Grants.

"(b) **Carry-Back Authority.**—Up to 10 percent of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

"JOB LOCATION AND DEVELOPMENT PROGRAMS

42 USC 2756.

"Sec. 446. (a) **Agreements Required.**—(1) The Secretary is authorized to enter into agreements with eligible institutions under which—

"(A) such institution may use not more than 10 percent or

$30,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs for currently enrolled students; and

"(B) such institution may use not more than 10 percent or $20,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions and through formal or informal consultation with local nonprofit, governmental, educational, and community-based organizations, locates and develops community services jobs for students eligible under this part.

"(2) Jobs located and developed under subparagraph (A) or (B) of paragraph (1) shall be jobs which are suitable to the scheduling and other needs of such students and which, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

"(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

"(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution unless such jobs directly relate to the objectives described in subsection (a)(1)(B) of this section;

"(3) provide satisfactory assurance that the institution will continue to spend in its own job location and development programs, from sources other than funds received under this section, not less than the average expenditures per year made during the most recent 3 fiscal years preceding the effective date of the agreement;

"(4) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

Contracts.

"(5) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

"(6) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding, in the aggregate, the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

Report.

"(7) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

"(c) DEFINITION OF COMMUNITY SERVICE.—For the purpose of this section, the term 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), housing and neighborhood improvement, rural development, and community improvement.

"WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

42 USC 2756a.

"SEC. 447. (a) PURPOSE.—The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems

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related to the needs of low-income individuals.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) 'community service-learning program' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and

"(2) 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement.

"(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning, development, and administration of such programs.".

42 USC 2753 note.

(b) EFFECTIVE DATE.—Sections 443(c), 446, and 447 of the Act as amended by this section shall apply to periods of enrollment beginning on or after July 1, 1987.

SEC. 404. DEMONSTRATION PROJECT AUTHORIZED.

The Act is amended by adding after part C the following:

"PART D—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

"STATEMENT OF PURPOSE

20 USC 1087a.

"SEC. 451. It is the purpose of this part to examine the feasibility of a direct loan program which uses the income contingent repayment method in order to increase the economic and full use of direct student loan funds.

"DEMONSTRATION PROJECT AUTHORIZED

20 USC 1087b.

"SEC. 452. (a) GENERAL AUTHORITY.—The Secretary shall, from the amounts appropriated each fiscal year, carry out demonstration projects in accordance with the provisions of this part.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making contributions to student loan funds established pursuant to this part, there are authorized to be appropriated $5,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(c) **Allotment; Maximum Number of Grants.**—(1) The Secretary shall allot the amounts appropriated in each fiscal year pursuant to subsection (b) among institutions of higher education which desire to participate in the pilot project authorized by this part and which have agreements with the Secretary under section 453.

"(2) The Secretary may not enter into agreements with more than 10 institutions of higher education under this part.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

"Sec. 453. An agreement with an institution of higher education under this part shall— 20 USC 1087c.

"(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

"(2) provide for the deposit in such fund of Federal capital contributions from funds appropriated pursuant to section 452(b);

"(3) provide for the deposit in such fund of a capital contribution by such institution equal to not less than one-ninth of the amount of the Federal capital contribution described in paragraph (2);

"(4) provide for the deposit in such fund of collections of principal and interest on student loans made from deposited funds and any other earnings of such funds;

"(5) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part;

"(B) administrative expenses; and

"(C) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations;

"(6) provide that repayment of the loans made from such student loan funds will be made in accordance with a repayment schedule, which will be adjusted annually on the basis of the total amount borrowed by the student and the income of the student borrower, together with such adjustments in the schedule as the Secretary and the institution determine will best carry out the purpose of this part, except that for the first 2 years of the repayment period the schedule may require a fixed payment plan;

"(7) provide for the distribution of assets from student loan funds under this part in accordance with criteria prescribed by the Secretary, based upon the provisions of section 466; and

"(8) provide for such other assurances and limitations as the Secretary may reasonably require.

"TERMS OF LOAN UNDER THE PILOT PROGRAM

"Sec. 454. (a) **Conditions, Limitations, and Requirements.**—(1) Loans from any student loan fund established pursuant to an agreement under section 453, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine. 20 USC 1087d.

"(2) The aggregate amount of all loans made by institutions of higher education from loan funds established pursuant to agreements under this part to any student may not exceed $17,500.

"(3) The total amount of loans made by institutions of higher education from loan funds established pursuant to such agreement for any academic year may not exceed—

"(A) $2,500 in the case of a student who is in the first or second academic year of a program of education leading to a bachelor's degree;

"(B) $3,500 in the case of a student who is in the third such year; and

"(C) $4,500 in the case of a student who is in the fourth and fifth such year.

"(4) The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.

"(5) Loans made from loan funds established pursuant to such agreements shall contain such agreements for deferments, interest accrual during deferments, and loan cancellation, as are consistent with the provisions of part E of this title, subject to such modifications as the Secretary may, by regulation, prescribe.

"(b) AUTHORITY OF SECRETARY TO PRESCRIBE OTHER TERMS.—The Secretary may by regulation prescribe such other terms for loans made from loan funds established pursuant to such agreements as the Secretary determines will contribute to carrying out the provisions of this part.

"FEASIBILITY STUDY

20 USC 1087e.

"SEC. 455. (a) STUDY.—The Secretary shall, based upon the projects assisted under this part, conduct a study of the feasibility of extending the pilot project to a direct student loan fund program of general applicability beginning after September 30, 1990.

"(b) REPORT.—The Secretary shall prepare and submit to the Congress a report on the feasibility study begun pursuant to subsection (a) not later than October 1, 1991, and October 1, 1995, together with such recommendations as the Secretary deems appropriate.".

SEC. 405. AMENDMENT TO PART E OF THE ACT.

(a) AMENDMENT.—Part E of title IV of the Act is amended to read as follows:

"PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"APPROPRIATIONS AUTHORIZED

20 USC 1087aa.

"SEC. 461. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions. Loans made under this part shall be known as 'Perkins Loans'.

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"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.

"(c) USE OF APPROPRIATIONS.—Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

"ALLOCATION OF FUNDS

"SEC. 462. (a) **ALLOCATION BASED ON PREVIOUS ALLOCATION.**—(1) From the amount appropriated pursuant to section 461(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

20 USC 1087bb.

"(A) 100 percent of the amount such institution expended under this part for fiscal year 1985, multiplied by

"(B) the institution's default penalty, as determined under subsection (f),

except that if the institution which has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

"(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

"(i) $5,000; or

"(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

"(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

"(i) $5,000;

"(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

"(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

"(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

"(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

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"(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

"(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

"(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

"(ii) the institution's default penalty, as determined under subsection (f),

except that if the institution which has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

"(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

"(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

"(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

"(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

"(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

"(b) Allocation of Excess Based on Pro Rata Share.—From one-quarter of the remainder of the amount appropriated pursuant to section 461(b) for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

"(1) the amount the eligible institution receives for such fiscal year under subsection (a), bears to

"(2) the amount all such institutions receive under such subsection (a).

"(c) Allocation of Excess Based on Share of Excess Eligible Amounts.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 461(b) after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

"(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 461(b) for the fiscal year; exceeds 100 STAT. 1442

"(B) the amount required to be allocated to that institution under subsection (a),

except that an eligible institution which has a default rate in excess of the applicable maximum default rate under subsection (g) may not receive an allocation under this paragraph.

"(3) For any eligible institution, the eligible amount of that institution is equal to—

"(A) the amount of the institution's self-help need, as determined under subsection (d); minus

"(B) the institution's anticipated collections; multiplied by

"(C) the institution's default penalty, as determined under subsection (f);

except that, if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the eligible amount of that institution is zero.

"(d) Determination of Institution's Self-Help Need.—(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

"(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

"(A) establish various income categories for dependent and independent undergraduate students;

"(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) compute 25 percent of the average cost of attendance for all undergraduate students;

"(D) multiply the number of eligible dependent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

"(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

"(F) multiply the number of eligible independent students in each income category by the lesser of—

"(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

"(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

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"(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

"(H) add the amounts determined under subparagraphs (E) and (G).

"(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years, the Secretary shall—

"(A) establish various income categories for graduate and professional students;

"(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

"(C) determine the average cost of attendance for all graduate and professional students;

"(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

"(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

"(F) add the amounts determined under subparagraph (E) for each income category.

"(3)(A) For purposes of paragraphs (2) and (3), the term 'average cost of attendance' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

"(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

"(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

"(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

"(e) ANTICIPATED COLLECTIONS; CASH ON HAND.—An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

"(f) DEFAULT PENALTY.—For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under paragraph (2), the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

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"(g) APPLICABLE MAXIMUM DEFAULT RATE.—(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

"(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent.

"(h) DEFINITION OF DEFAULT RATE.—(1) For the purpose of this section, the default rate is computed by dividing—

"(A) the total principal amount of defaulted loans; by

"(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 464(c)(2)(A)(i) or are in a grace period preceding repayment.

"(2) For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

"(A) amounts that have been repaid or cancelled on such loans;

"(B) loans discharged in bankruptcy;

"(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a); and

"(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.

"(3) A loan shall be considered to be in default—

"(A) 120 days (in the case of a loan repayable monthly), or

"(B) 180 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

"(i) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

"AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

20 USC 1087cc.

"SEC. 463. (a) CONTENTS OF AGREEMENTS.—An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

"(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

"(2) provide for the deposit in such fund of—

"(A) Federal capital contributions from funds appropriated under section 461;

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

"(C) collections of principal and interest on student loans made from deposited funds;

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"(D) charges collected pursuant to regulations under section 464(c)(1)(H); and

"(E) any other earnings of the funds;

"(3) provide that such student loan fund shall be used only for—

"(A) loans to students, in accordance with the provisions of this part;

"(B) administrative expenses, as provided in subsection (b);

"(C) capital distributions, as provided in section 466; and

"(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

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"(4) provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in a report describing the total number of loans from such fund which are in such default, and made to the Secretary at least semiannually;

"(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

"(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

"(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

"(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

"(B) if the institution is not one described in subparagraph (A), the Secretary may—

"(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

"(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

"(6) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 462;

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"(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

"(8) provide assurances that the institution will comply with the provisions of section 463A;

"(9) provide that the institution of higher education will make loans first to students with exceptional need; and

"(10) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

"(b) ADMINISTRATIVE EXPENSES.—An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 485.

"(c) COOPERATIVE AGREEMENTS WITH CREDIT BUREAU ORGANIZATIONS.—(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

"(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 430A except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

"(A) the date of disbursement and the amount of any such loan;

"(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

"(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

"(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

"(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency, if that account has not been previously reported by any other holder of the note.

"STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS

20 USC 1087cc-1.

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"SEC. 463A. (a) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

"(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

"(2) the principal amount of the loan;

"(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

"(4) the stated interest rate on the loan;

"(5) the yearly and cumulative maximum amounts that may be borrowed;

"(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

"(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

"(8) a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;

"(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

"(11) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

"(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

"(b) DISCLOSURE REQUIRED PRIOR TO REPAYMENT.—Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include— 100 STAT. 1448

"(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

"(2) the scheduled date upon which the repayment period is to begin;

"(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

"(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

"(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

"(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

"(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

"(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

"(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

Claims.

"(c) COSTS AND EFFECTS OF DISCLOSURES.—Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

"TERMS OF LOANS

Regulations.
20 USC 1087dd.

"SEC. 464. (a) TERMS AND CONDITIONS.—(1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

"(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(C) $4,500 in the case of any other student.

"(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

"(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED.—(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part F of this title and who meets the requirements of section 484.

"(2) If the institution's Federal capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.

"(c) CONTENTS OF LOAN AGREEMENT.—(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

"(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

"(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

"(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

"(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

"(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of (i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (I) prior to the beginning date of repayment determined under subparagraph (A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

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"(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

"(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

"(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6);

"(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

"(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

"(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

Armed Forces.

"(ii) is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

22 USC 2501 note.

"(iii) is in service as a volunteer under the Peace Corps Act;

42 USC 4951 note.

"(iv) is in service as a volunteer under the Domestic Volunteer Act of 1973;

26 USC 501.

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service;

"(vii) is temporarily totally disabled (as defined in section 435(g)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

"(viii) is on parental leave, as defined in section 435(h); or

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29 USC 206.

"(ix) is a mother with preschool age children who is just entering or reentering the workforce and who is compensated at a rate not to exceed $1 in excess of the rate prescribed by section 6 of the Fair Labor Standards Act of 1938.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed 3 years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed 2 years. The period during which repayment may be deferred by reason of clause (viii) shall not exceed 6 months. The period during which the repayment may be deferred by reason of clause (ix) shall not exceed 12 months.

"(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.

"(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

"(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

"(4) The institution may elect—

"(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

"(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

"(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS.—An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

"CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

20 USC 1087ee.

"SEC. 465. (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be canceled under paragraph (1) for service—

"(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such title I;

20 USC 2701.

20 USC 2711.

"(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

42 USC 2809.

"(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system;

"(D) as a member of the Armed Forces of the United States, for services that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities; or

"(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973.

22 USC 2501 note.
42 USC 4951 note.

For the purpose of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

"(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

"(i) in the case of service described in subparagraph (A) or (C) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

"(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

"(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

"(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

"(4) For the purpose of this subsection, the term 'year' where applied to service as a teacher means academic year as defined by the Secretary.

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

"(b) Reimbursement for Cancellation.—The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

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"DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

20 USC 1087ff.

"Sec. 466. (a) In General.—After September 30, 1996, and not later than March 31, 1997, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1996, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

"(2) The remainder of such balance shall be paid to the institution.

"(b) Distribution of Late Collections.—After March 31, 1997, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1996, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

"(c) Distribution of Excess Capital.—Upon a finding by the institution or the Secretary prior to October 1, 1997, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

"(2) The remainder of the capital distribution shall be paid to the institution.

"COLLECTION OF DEFAULTED LOANS

Claims.
20 USC 1087gg.

"Sec. 467. (a) Authority of Secretary To Collect Referred, Transferred, or Assigned Loans.—With respect to any loan—

"(1) which was made under this part, and

"(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a),

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under

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such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

"(b) **Collection of Referred, Transferred, or Assigned Loans.**—The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

"GENERAL AUTHORITY OF SECRETARY

"Sec. 468. In carrying out the provisions of this part, the Secretary is authorized— 20 USC 1087hh.

"(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

"(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

"(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.". Contracts.

(b) **Effective Dates.**—(1) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date. 20 USC 1087dd note.

(2) Section 463(a)(9) of the Act as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

(3) For the purpose of this subsection, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act.

SEC. 406. ADDITION OF A NEW PART F RELATING TO NEED ANALYSIS FOR STUDENT ASSISTANCE.

(a) **Amendment.**—Title IV of the Act is further amended by redesignating part F as part G and by inserting after part E the following new part:

"Part F—Need Analysis

"AMOUNT OF NEED

"Sec. 471. Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subparts 1 and 3 of part A) is equal to the cost of attendance of such student minus the expected family contribution for such student. 20 USC 1087kk.

"COST OF ATTENDANCE

"Sec. 472. For the purpose of this title (except for subpart 1 of part A and subject to section 478), the term 'cost of attendance' means— 20 USC 1087*ll*.

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"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (7));

"(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

"(6) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study (as determined by the institution);

"(7) for a student with one or more dependents, an allowance (as determined by the institution) based on the expenses reasonably incurred for dependent care based on the number and age of such dependents;

Handicapped persons.

"(8) for a handicapped student, an allowance (as determined by the institution) for those expenses related to his or her handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies; and

"(9) for a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment.

"FAMILY CONTRIBUTION

20 USC 1087mm.

"SEC. 473. For the purpose of this title, except subparts 1 and 3 of part A, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

"DATA ELEMENTS USED IN DETERMINING EXPECTED FAMILY CONTRIBUTION

20 USC 1087nn.

"SEC. 474. The following data elements are considered in determining the expected family contribution:

"(1) the available income of (A) the student and his or her spouse, or (B) the student (and spouse) and the student's parents, in the case of a dependent student;

"(2) the number of dependents in the family of the student;

"(3) the number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education and for whom the family may reasonably be expected to contribute to their postsecondary education;

"(4) the net assets of (A) the student and his or her spouse, and (B) the student (and spouse) and the student's parents, in the case of a dependent student;

"(5) the marital status of the student;

"(6) any unusual medical and dental expenses of (A) the student and the student's parents, in the case of a dependent student, or (B) the student and his or her dependents, in the case of an independent student;

"(7) the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid (A) in the case of a dependent student, by the student's parents for such dependent children, or (B) in the case of an independent student with dependents, by the student or his or her spouse for such dependent children who are so enrolled; and

"(8) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when both the student and his or her spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954.

26 USC 2.

"FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS

20 USC 1087oo.

"SEC. 475. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student the expected family contribution is equal to the sum of—

"(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

"(2) the student (and spouse) contribution from available income (determined in accordance with subsection (g)); and

"(3) the student (and spouse) income supplemental amount from assets (determined in accordance with subsection (h)).

"(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the parents' available income (determined in accordance with subsection (c)); and

"(B) the parents' income supplemental amount from assets (determined in accordance with subsection (d));

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"(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(c) PARENTS' AVAILABLE INCOME.—

"(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) a standard maintenance allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5);

"(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(G) an educational expense allowance, determined in accordance with paragraph (7).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

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"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

"Standard Maintenance Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional substract:
2	$8,380	$6,950				
3	10,440	9,010	$7,580			
4	12,890	11,460	10,030	$8,600		
5	15,210	13,780	12,350	10,920	$8,490	
6	17,790	16,360	14,930	13,500	12,070	1,430
For each additional add:	2,010	2,010	2,010	2,010	2,010	

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

"(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,100 or 35 percent of the earned income of the parent with the lesser earned income.

"(B) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,100 or 35 percent of his or her earned income. 26 USC 2.

For any award year after award year 1987-1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

"(6) Medical-dental expense allowance.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses, including medical insurance premiums, exceeds 5 percent of the total income of the parents.

"(7) Educational expense allowance.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student's parents for each dependent child, other than the student, enrolled in an elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics using the most recent available data.

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"(d) Parents' Income Supplemental Amount From Assets.—

"(1) In general.—The parents' income supplemental amount from assets is equal to—

"(A) the parental net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) Parental net worth.—The parental net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value of the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and 29 USC 1651.

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1-$65,000	40 percent of NW
$65,001-$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001-$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Families and Students

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If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,900	1,500
27	3,900	3,000
28	5,800	4,500
29	7,800	6,100
30	9,700	7,600
31	11,700	9,100
32	13,600	10,600
33	15,600	12,100
34	17,500	13,600
35	19,500	15,100
36	21,400	16,600
37	23,400	18,200
38	25,300	19,700
39	27,300	21,200
40	29,200	22,700
41	30,000	23,200
42	30,800	23,800
43	31,600	24,200
44	32,500	24,800
45	33,300	25,400
46	34,200	26,100
47	35,200	26,700
48	36,100	27,200
49	37,300	27,900
50	38,300	28,800
51	39,600	29,500
52	40,900	30,300
53	42,000	31,000
54	43,400	32,000
55	44,800	32,800
56	46,300	33,800
57	48,100	34,600
58	49,700	35,700
59	51,600	36,800
60	53,300	37,900
61	55,300	39,000
62	57,400	40,200
63	59,600	41,400
64	61,800	42,600
65 or more	64,100	44,100

"(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

"(A) if the parental net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

"(B) if such parental net worth minus such asset protection allowance is less than zero and the parents' contribution from available income (determined in accordance with subsection (c)) is greater than $15,000, the conversion rate is zero percent;

"(C) if such parental net worth minus such asset protection allowance is less than zero and such parents' available income is equal to or greater than zero but less than $15,000, the conversion rate (rounded to 3 decimal places) is equal to 6 percent multiplied by a fraction—

"(i) the numerator of which is equal to $15,000 minus such parents' available income; and

"(ii) the denominator of which is $15,000; and

"(D) if such parental net worth minus such asset protection allowance is less than zero and such parents' available income is equal to or less than zero, the conversion rate is 6 percent.

100 STAT. 1461

"(e) Assessment Schedule.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 479):

"Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than $3,409	−$750
$3,409 to $7,500	22% of AAI
$7,501 to $9,400	$1,650 + 25% of AAI over $7,500
$9,401 to $11,300	$2,125 + 29% of AAI over $9,400
$11,301 to $13.200	$2,676 + 34% of AAI over $11,300
$13,201 to $15,100	$3,322 + 40% of AAI over $13,200
$15,101 or more	$4,082 + 47% of AAI over $15,100

"(f) Computations in Case of Separation, Divorce, Remarriage, or Death.—

"(1) Divorced or separated parents.—Income for a student whose parents are divorced or separated is determined under the following procedures:

"(A) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(B) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(C) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(2) Death of a parent.—Income in the case of the death of any parent is determined as follows:

"(A) If either of the parents have died, the student shall include only the income of the surviving parent.

"(B) If both parents have died, the student shall not report any parental income.

"(3) Remarried parents.—Income in the case of a parent whose income is taken into account under paragraph (1) of this subsection, or a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, is determined as follows: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if—

"(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(B) the student is not an independent student.

"(g) Student Contribution From Available Income.—

"(1) In general.—The student (and spouse) contribution from available income is equal to the greater of—

"(A) a mandatory self-help amount of $700 for a first-year undergraduate student;

"(B) a mandatory self-help amount of $900 for any other student; or

100 STAT. 1462

"(C) an amount equal to 70 percent of the student's total income (determined in accordance with section 480) minus the adjustment to student (and spouse) income (determined in accordance with paragraph (3)).

"(2) ADJUSTMENT TO STUDENT (AND SPOUSE) INCOME.—The adjustment to student (and spouse) income is equal to the sum of—

"(A) estimated Federal income taxes of the student (and spouse);

"(B) an allowance for State and local income taxes (determined in accordance with paragraph (3)); and

"(C) an allowance for social security taxes determined in accordance with paragraph (4).

"(3) ALLOWANCE FOR STATE AND LOCAL INCOME TAXES.—The allowance for State and local income taxes is equal to an amount determined by multiplying total taxable income (as defined in section 480) by a percentage determined according to the following table:

"Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

"(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student (and spouse) multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(h) STUDENT (AND SPOUSE) INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

"(1) the current balance of checking and savings accounts and cash on hand; and

"(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act).

29 USC 1651.

100 STAT. 1463

"FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

20 USC 1087pp.

"SEC. 476. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependents (including a spouse), the expected family contribution is equal to the sum of—

"(1) the student's contribution from income (determined in accordance with subsection (b)); and

"(2) the student's income supplemental amount from assets (determined in accordance with subsection (c)).

"(b) STUDENT'S CONTRIBUTION FROM INCOME.—

"(1) IN GENERAL.—The student's contribution from income is determined by—

"(A) computing the student's available taxable income by deducting from the student's adjusted gross income—

"(i) Federal income taxes;

"(ii) an allowance for State and local income taxes, determined in accordance with paragraph (2);

"(iii) the allowance for social security taxes, determined in accordance with paragraph (3); and

"(iv) a maintenance allowance for periods of nonenrollment not to exceed $600 per month;

"(B) assessing such available taxable income in accordance with paragraph (4); and

"(C) adding to the assessment resulting under subparagraph (B) the amount of the untaxed income and benefits of the student (determined in accordance with section 480(c)),

except that the student's contribution from income shall not be less than $1,200.

"(2) Allowance for state and local income taxes.—The allowance for State and local income taxes is equal to an amount determined by multiplying total taxable income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

"(3) Allowance for social security taxes.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate 100 STAT. 1464
appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) Assessment of available taxable income.—The student's available taxable income (determined in accordance with paragraph (1)(A) of this subsection) is assessed as follows:

"(A) if such available taxable income is equal to or greater than $0 but less than or equal to $8,900, then the assessment is equal to 70 percent of such available taxable income; and

"(B) if such available taxable income is greater than $8,900, then the assessment is equal to $6,230 plus 90 percent of such available taxable income in excess of $8,900.

"(c) Student's Income Supplemental Amount From Assets.—

"(1) In general.—The student's income supplemental amount from assets is equal to—

"(A) the student's net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) STUDENT'S NET WORTH.—The student's net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

29 USC 1651.

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1-$65,000	40 percent of NW
$65,001-$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001-$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

100 STAT. 1465

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

"Asset Protection Allowances for Students

If the age of the student is—	Then the asset protection allowance is—
25 or less	$0
26	1,500
27	3,000
28	4,500
29	6,100
30	7,600
31	9,100
32	10,600
33	12,100
34	13,600
35	15,100
36	16,600
37	18,200
38	19,700
39	21,200
40	22,700
41	23,200
42	23,800
43	24,200
44	24,800
45	25,400
46	26,100
47	26,700
48	27,200
49	27,900
50	28,800
51	29,500
52	30,300
53	31,000
54	32,000
55	32,800
56	33,800
57	34,600

"Asset Protection Allowances for Students

If the age of the student is—	Then the asset protection allowance is—
58	35,700
59	36,800
60	37,900
61	39,000
62	40,200
63	41,400
64	42,600
65 or more	44,100

"(4) ASSET CONVERSION RATE.—The asset conversion rate is 35 percent.

"FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS

"SEC. 477. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.— For each independent student with dependents (including a spouse) the expected family contribution is equal to the amount determined by— 20 USC 1087qq.

"(1) computing adjusted available income by adding—

"(A) the family's available income (determined in accordance with subsection (b)); and

"(B) the family's income supplemental amount from assets (determined in accordance with subsection (c));

"(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d); and 100 STAT. 1466

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(b) FAMILY'S AVAILABLE INCOME.—

"(1) IN GENERAL.—The family's available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) a standard maintenance allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5);

"(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

"(G) an educational expense offset, determined in accordance with paragraph (7);

except that the family's available income shall not be less than $700 for a first year undergraduate student or $900 for any other student.

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 479):

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

100 STAT. 1467

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student and the student's spouse multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

"Standard Maintenance Allowance

Family size	Number in college					
(including student)	1	2	3	4	5	For each additional subtract:
2	$8,380	$6,950				
3	10,440	9,010	$7,580			
4	12,890	11,460	10,030	$8,600		
5	15,210	13,780	12,350	10,920	$8,490	
6	17,790	16,360	14,930	13,500	12,070	1,430
For each additional add:	2,010	2,010	2,010	2,010	2,010	

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

"(A) If both the student and a spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,000 or 35 percent of the earned income of the student or spouse with the lesser earned income.

26 USC 2.

"(B) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,100 or 35 percent of his or her earned income.

For any award year after award year 1987–1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

"(6) MEDICAL-DENTAL EXPENSE ALLOWANCE.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses, including medical insurance premiums, exceeds 5 percent of the total income of the family.

100 STAT. 1468

"(7) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student or the student's spouse, or both, for each dependent child, enrolled in elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the National Center for Educational Statistics using the most recent available data.

"(c) FAMILY'S INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

"(1) IN GENERAL.—The family's income supplemental amount from assets is equal to—

"(A) the family net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)).

"(2) FAMILY NET WORTH.—The family net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 480(e) of this Act); and

29 USC 1651.

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 479):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1-$65,000	40 percent of NW
$65,001-$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001-$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

100 STAT. 1469

"Asset Protection Allowances for Families and Students

If the age of the student is—	And there are	
	two spouses	one spouse
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,900	1,500
27	3,900	3,000
28	5,800	4,500
29	7,800	6,100
30	9,700	7,600
31	11,700	9,100
32	13,600	10,600
33	15,600	12,100
34	17,500	13,600
35	19,500	15,100
36	21,400	16,600
37	23,400	18,200
38	25,300	19,700
39	27,300	21,200
40	29,200	22,700
41	30,000	23,200
42	30,800	23,800
43	31,600	24,200
44	32,500	24,800
45	33,300	25,400
46	34,200	26,100
47	35,200	26,700
48	36,100	27,200
49	37,300	27,900
50	38,300	28,800
51	39,600	29,500
52	40,900	30,300
53	42,000	31,000
54	43,400	32,000
55	44,800	32,800
56	46,300	33,800
57	48,100	34,600
58	49,700	35,700
59	51,600	36,800
60	53,300	37,900
61	55,300	39,000
62	57,400	40,200
63	59,600	41,400
64	61,800	42,600
65 or more	64,100	44,100

"(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

"(A) if the family's net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

"(B) if such family's net worth minus such asset protection allowance is less than zero and the family's available income (determined in accordance with subsection (c)) is greater than $15,000, the conversion rate is zero percent;

100 STAT. 1470

"(C) if such family's net worth minus such asset protection allowance is less than zero and such family's available income is equal to or greater than zero but less than $15,000, the conversion rate is equal to 6 percent multiplied by a fraction—

"(i) the numerator of which is equal to $15,000 minus such family's available income; and

"(ii) the denominator of which is $15,000; and

"(D) if such family's net worth minus such asset protection allowance is less than zero and such family's available income is less than zero, the conversion rate is 6 percent.

"(d) Assessment Schedule.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 479):

"Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than $3,409	−$750
$3,409 to $7,500	22% of AAI
$7,501 to $9,400	$1,650 + 25% of AAI over $7,500
$9,401 to $11,300	$2,125 + 29% of AAI over $9,400
$11,301 to $13,200	$2,676 + 34% of AAI over $11,300
$13,201 to $15,100	$3,322 + 40% of AAI over $13,200
$15,101 or more	$4,082 + 47% of AAI over $15,100

"REGULATIONS; UPDATED TABLES

20 USC 1087rr.

"Sec. 478. (a) Authority To Prescribe Regulations Restricted.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

"(A) to prescribe updated tables in accordance with subsections (b) through (e) of this section; or

"(B) to propose modifications in the need analysis methodology required by this part.

Regulations.

Federal Register, publication.

"(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (e) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (e) of this section.

Federal Register, publication.

"(b) Standard Maintenance Allowance.—For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of standard maintenance allowances for the purpose of sections 475(c)(4) and 477(b)(4). Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

100 STAT. 1471

Federal Register, publication.

"(c) Adjusted Net Worth of a Farm or Business.—For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for the purpose of sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed—

"(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between 1986 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $5,000; and

"(2) by adjusting the dollar amounts '$26,000', '$91,000', and '$169,000' to reflect the changes made pursuant to paragraph (1).

Federal Register, publication.

"(d) Asset Protection Allowance.—For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of asset protection allowances for purposes of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost of an annuity that would provide, for each age cohort, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics) and the current average social security retirement benefits. In making such determinations—

"(1) inflation shall be presumed to be 6 percent per year;

"(2) the rate of return of an annuity shall be presumed to be 8 percent; and

"(3) the sales commission on an annuity shall be presumed to be 6 percent.

Federal Register, publication.

"(e) Assessment Schedules and Rates.—(1) For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed—

"(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(B) by adjusting the other dollar amounts to reflect the changes made pursuant to subparagraph (A).

"(2) For each academic year after academic year 1987–1988, the assessments made pursuant to section 476(b)(4) shall be made—

"(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(B) by adjusting the other dollar amount to reflect the changes made pursuant to subparagraph (A).

Federal Register, publication.

The Secretary shall publish in the Federal Register the adjustments required to carry out this paragraph.

100 STAT. 1472

"(f) Definition of Consumer Price Index.—As used in this section, the term 'Consumer Price Index' means the Consumer Price Index ~~for Wage Earners~~ and Clerical Workers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

"SIMPLIFIED NEEDS TEST

20 USC 1087ss.

"Sec. 479. (a) Applicable to All Title IV Programs.—The Secretary shall use a simplified needs analysis for any provision of this title based upon the elements set forth in paragraph (2) for the calculation of the expected family contribution for families which have adjusted gross incomes which are equal to or less than $15,000 per year and which file a form 1040A pursuant to the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

"(b) Elements in Tests.—The five elements to be used for the simplified needs analysis are—

"(1) adjusted gross income,

"(2) Federal and State taxes paid,

"(3) untaxed income and benefits,

"(4) the number of family members, and

"(5) the number of family members in postsecondary education.

"DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

"Sec. 479A. Nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected family contribution computations to allow for treatment of individual students with special circumstances. In addition, nothing in this part shall be interpreted as limiting the ability of the student financial aid administrator to use supplementary information about the financial status of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.

20 USC 1087tt.

"STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS

"Sec. 479B. No portion of any student financial assistance received by an individual from any program funded in whole or in part under title IV of this Act which is used by that individual for costs described in section 472 (1) and (2) of this title, shall be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

20 USC 1087uu.

"DEFINITIONS

"Sec. 480. As used in this part:

20 USC 1087vv.

"(a) Total Income.—(1) Except as provided in paragraphs (2) and (3), the term 'total income' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year.

"(2) The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B, C, and E of this title for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.

Regulations.

100 STAT. 1473

"(3) Income in the case of a dislocated worker shall be the income for the year for which the determination is made. For the purpose of this subparagraph, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

29 USC 1651.

"(b) Untaxed Income and Benefits of Parents and Independent Students With Dependents.—The term 'untaxed income and benefits' when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

"(1) the Federal income tax deduction for a married couple when both work;

"(2) child support received;

"(3) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

42 USC 601.

"(4) untaxed portions of unemployment compensation, except in any case in which a student is a dislocated worker certified in accordance with title III of the Job Training Partnership Act;

"(5) workmen's compensation;

"(6) veterans benefits such as death pension, dependency and indemnity compensation, and Veterans' Administration vocational rehabilitation program benefits (excluding educational benefits);

"(7) educational benefits received under chapter 31 or chapter 34 of title 38, United States Code, by family members excluding dependent students;

38 USC 1500 *et seq.*, 1651 *et seq.*

"(8) interest on tax-free bonds;

"(9) the amount of dividends excluded for Federal income tax purposes;

"(10) untaxed portions of pensions and capital gains;

"(11) housing, food, and other living allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

29 USC 1501 note.

"(12) Job Training Partnership Act noneducational benefits;

"(13) payments to individual retirement accounts and Keogh accounts;

"(14) the amount of earned income credit claimed for Federal income tax purposes;

"(15) credit for Federal tax on special fuels;

"(16) the amount of dividend reinvestment excluded for purposes of Federal income taxes;

"(17) the amount of foreign income excluded for purposes of Federal income taxes;

"(18) untaxed social security benefits; and

"(19) any other untaxed income and benefits, such as black lung or railroad retirement benefits.

"(c) Untaxed Income and Benefits of Dependent Students or Independent Students Without Dependents.—For the purpose of this part, the term 'untaxed income and benefits' when applied to the contributions of dependent students or independent students without dependents means—

"(1) veterans benefits such as death pension, dependency and

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indemnity compensation, and Veterans' Administration vocational rehabilitation program benefits (excluding educational benefits);

38 USC 1500 *et seq.*, 1651 *et seq.*

"(2) educational benefits received under chapter 31 or chapter 34 of title 38, United States Code, by the student;

"(3) interest on tax-free bonds;

"(4) the amount of dividends excluded for purposes of Federal income taxes;

"(5) untaxed portions of pensions and capital gains;

"(6) housing, food, and other living allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

29 USC 1501 note.

29 USC 1651.

"(7) Job Training Partnership Act noneducational benefits, except in any case in which a student is a dislocated worker certified in accordance with title III of the Job Training Partnership Act;

"(8) untaxed portions of social security;

"(9) welfare benefits;

"(10) untaxed portions of unemployment compensation;

"(11) workmen's compensation;

"(12) payments to individual retirement accounts and Keogh accounts;

"(13) credit for Federal tax on special fuels;

"(14) the amount of dividend reinvestment excluded for purposes of Federal income taxes;

"(15) the amount of foreign income excluded for purposes of Federal income taxes; and

"(16) any other untaxed income and benefits, such as black lung or railroad retirement benefits.

"(d) Independent Student.—(1) The term 'independent', when used with respect to a student, means any individual who—

"(A) is 24 years of age or older by December 31 of the award year; or

"(B) meets the requirements of paragraph (2).

"(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

"(A) is an orphan or ward of the court;

"(B) is a veteran of the Armed Forces of the United States;

"(C) is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(D) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

"(E) has legal dependents other than a spouse;

"(F) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating an annual total income of $4,000; or

"(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(3) An individual may not be treated as an independent student pursuant to subparagraphs (C), (D), and (F) of paragraph (2) if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

"(4) The financial aid administrator may certify an individual described in subparagraph (C), (D), or (F) of paragraph (2) on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

"(e) DISPLACED HOMEMAKER.—The term 'displaced homemaker' means an individual who—

"(1) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members;

"(2) (A) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (B) is receiving public assistance on account of dependent children in the home; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.".

(b) EFFECTIVE DATES FOR NEED ANALYSIS PROVISIONS.—(1) Except as provided in paragraphs (2) and (3)— 20 USC 1087kk note.

(A) part F of title IV of the Act shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988–1989 and succeeding academic years; and

(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982. 20 USC 1001 note.

(2) With respect to an application filed after the date of enactment of this Act for a loan under part B of such title for any academic year preceding academic year 1988–1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title.

(3) For purposes of sections 413D(d)(2)(B), 442(d)(2)(B) and 462(d)(2)(B) for any academic year preceding academic year 1988–1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986–1987, adjusted to reflect changes in data.

(4) The definition of independent student contained in section 480(d) of the Act as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of 20 USC 1087vv note.

programs operated under part B of title IV of the Act, or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title.

SEC. 407. REVISION OF STUDENT ASSISTANCE GENERAL PROVISIONS.

(a) AMENDMENT.—Part G of title IV of the Act (as redesignated by 100 STAT. 1476 section 406) is amended to read as follows:

"PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

20 USC 1088. "SEC. 481. (a) INSTITUTION OF HIGHER EDUCATION.—(1) For the purpose of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited 2-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—For the purpose of this section, the term 'proprietary institution of higher education' means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least 2 years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.

"(c) POSTSECONDARY VOCATIONAL INSTITUTION.—For the purpose of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least 2 years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under subsection (d) of this section) from the training offered by the institution.

"(d) ACADEMIC YEAR.—For the purpose of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"MASTER CALENDAR

20 USC 1089.

"SEC. 482. (a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

"(1) Development and distribution of Federal and multiple data entry forms—

"(A) by February 1: first meeting of the technical committee on forms design of the Department;

Federal Register, publication.

"(B) by March 1: proposed modifications and updates pursuant to sections 411E and 478 published in the Federal Register;

Federal Register, publication.

"(C) by June 1: final modifications and updates pursuant to sections 411E and 478 published in the Federal Register;

"(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

"(E) by August 30: final approved forms delivered to servicers and printers;

"(F) by October 1: Federal and multiple data entry forms and instructions printed; and

"(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

"(2) Allocations of campus-based and Pell Grant funds—

"(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

"(B) by October 1: final date for submission of FISAP by institutions to the Department;

"(C) by November 15: edited FISAP and computer printout received by institutions;

"(D) by December 1: appeals procedures received by institutions;

"(E) by December 15: edits returned by institutions to the Department;

"(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

"(G) by February 15: closing date for receipt of institutional appeals by the Department;

"(H) by March 1: appeals process completed;

"(I) by April 1: final award notifications sent to institutions; and

"(J) by June 1: Pell Grant authorization levels sent to institutions.

"(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D(e) or 442(e), the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 2 of part A and part C, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

"(d) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

Report.

"FORMS AND REGULATIONS

20 USC 1090.

"SEC. 483. (a) COMMON FINANCIAL AID FORM AND PROCESSING.—(1) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, and E of this title (other than under subpart 3 of part A) and to determine the need of a student for the purpose of part B of this title. For the purpose of collecting eligibility and other data for the purpose of part B, guaranty agencies, in cooperation with the Secretary, shall develop separate, identifiable loan application documents that applicants shall submit directly to eligible lenders. No student or parent of a student shall be charged a fee for processing the form prescribed by the Secretary whether the student completes that form or any other approved form. A student or parent may be charged a fee for processing an institutional or a State financial aid form or data elements that is not required by the Secretary.

State and local governments.

Contracts.
State and local governments.

"(2) The Secretary shall, to the extent practicable, enter into not less than 3 contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports.

"(3) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

"(4) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

State and local governments.

"(5) Nothing in this section shall prohibit States, institutions of higher education, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title.

100 STAT. 1479

"(b) INFORMATION TO COMMITTEES OF CONGRESS.—Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least 45 days prior to their effective date.

Contracts.
State and local governments.

"(c) INFORMATION ON ELIGIBILITY FOR ASSISTANCE.—To help ensure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

"(1) developing a common pre-eligibility Federal financial aid form,

"(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing, on the basis of information reported by the student on such form, a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subparts 4 and 5 of part A of this title.

Contracts.

"(d) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this title.

"(e) NOTICE OF STUDENT AID RECEIPT.—(1) The Secretary shall develop a single form on which the amount of assistance received under this title (except assistance received under subparts 4, 5, and 7 of part A) by each student who receives such assistance can be recorded. This form shall be titled 'United States Department of Education, Federal Student Assistance Report'. Such form shall have prominently displayed the Great Seal of the United States. Such form shall be the same or a closely similar color to that of checks issued by the Treasury Department and be provided by the Secretary free to eligible institutions in sufficient quantity and in a timely manner so that each eligible institution can provide a completed copy to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) at the time awards are made but not less than once annually.

"(2) Eligible institutions shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a completed copy of the 'United States Department of Education, Federal Student Assistance Report' form at the time awards are made but not less than once annually.

"STUDENT ELIGIBILITY

Grants.
20 USC 1091.

"SEC. 484. (a) IN GENERAL.—In order to receive any grant, loan, or work assistance under this title, a student must—

100 STAT. 1480

"(1) be enrolled or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);

"(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

"(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

Trust Territory of the Pacific Islands. Guam. Northern Mariana Islands.

"(5) be a citizen or national of the United States, a permanent resident of the United States, in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident, or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands.

"(b) Eligibility for Student Loans.—In order to be eligible to receive any loan under this title (other than a loan under section 428A, 428B, or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

"(1) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

"(2) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

"(c) Satisfactory Progress.—(1) For the purpose of subsection (a)(2), a student is maintaining satisfactory progress if—

"(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

"(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

"(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) for a grant, loan, or work assistance under this title.

100 STAT. 1481

"(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

"(A) the death of a relative of the student,

"(B) the personal injury or illness of the student, or

"(C) special circumstances as determined by the institution.

"(d) Ability to Benefit.—A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this title shall—

"(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier; or

"(2)(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

"(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent.

"(e) Certification for GSL Eligibility.—Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this title prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this title, if—

"(1) checks for the loans are mailed to the eligible institution prior to disbursements;

"(2) the disbursement is not made until the review is complete; and

"(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

"(f) VERIFICATION LIMITATIONS.—Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this title for more than 30 percent of the applicants in any award year.

"(g) LOSS OF ELIGIBILITY FOR VIOLATION OF LOAN LIMITS.—No student shall be eligible to receive any grant, loan, or work assistance under this title if the eligible institution determines that the student borrowed in violation of the annual loan limits under part B or part E of this title in the same academic year, or if the student borrowed in excess of the aggregate maximum loan limits under such part B or part E.

"STATUTE OF LIMITATIONS

"SEC. 484A. (a) IN GENERAL.—Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

State and local governments.
20 USC 1091a.

"(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

"(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

"(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

"(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

"(A) for payment of a refund due from a student on a grant made under this title until 6 years following the date on which the refund first became due;

"(B) for collection of the amount due the Secretary from a borrower pursuant to section 428 (c)(2)(D) and (c)(8) of this title until 6 years following the date on which the loan is assigned to the Secretary under part B of this title; and

"(C) for collection of the amount due from a borrower on a loan made under part E until 6 years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

"(b) ASSESSMENT OF COSTS AND OTHER CHARGES.—Notwithstanding any provision of State law to the contrary—

"(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

"(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

20 USC 1092.

100 STAT. 1483

"SEC. 485. (a) INFORMATION DISSEMINATION ACTIVITIES.—(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(2).

"(2) For the purpose of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) **Exit Counseling for Borrowers.**—Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B of this title or made under part E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(1) general information with respect to the average indebtedness of students who have loans under part B or part E; and

"(2) the average anticipated monthly repayments, a review of the repayment options available, together with such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness.

In the case of a borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information to the student in writing.

"(c) **Financial Assistance Information Personnel.**—Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

"(d) **Departmental Publication of Descriptions of Assistance Programs.**—The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this title. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

"COMBINED PAYMENT PLAN

"Sec. 485A. (a) **Eligibility for Plan.**—Upon the request of the borrower, a lender described in clause (i), (ii), or (iii) of section 428C(a)(1) of this Act, or defined in subpart I of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 428C of this Act (and section 439(o) of this Act as in effect prior to the enactment of section 428C) and loans guaranteed under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. 20 USC 1092a. 42 USC 294.

"(b) **Applicability of Other Requirements.**—A lender offering a combined payment plan shall comply with all provisions of section 428C applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I of part C of title VII of the Public Health Service Act applicable to loans under that subpart

100 STAT. 1485 which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 428C(b)(1)(A) if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

"(c) LENDER ELIGIBILITY.—Such lender may offer a combined payment plan only if—

"(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

"(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

"(d) BORROWER SELECTION OF COMPETING OFFERS.—In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

"(e) EFFECT OF PLAN.—Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

"(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

42 USC 294f. "(2) the loan being reissued was not in default (as defined in section 733(e)(3) of the Public Health Service Act) at the time the request for a combined payment plan is made.

"(f) NOTES AND INSURANCE CERTIFICATES.—(1) Each loan reissued under subsection (e) shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I of part C of title

42 USC 294. VII of the Public Health Service Act (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a) of the

42 USC 294a. Public Health Service Act. Notwithstanding the provisions of sec-

42 USC 294b. tion 729(a) of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the

100 STAT. 1486 borrower's obligation to that holder on that loan shall be discharged.

"(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I of

42 USC 294. part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date

permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act, and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period. 42 USC 201 note.

"(g) Termination of Borrower Eligibility.—The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

"(h) Fees and Premiums.—No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

"(i) Commencement of Repayment.—Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e).

"NATIONAL STUDENT LOAN DATA SYSTEM

"Sec. 485B. (a) Authority of the Secretary.—In order to assure improved and accurate information on student loan indebtedness and institutional lending practices, and to insure improved compliance with the repayment and loan limitation provisions of this title, the Secretary is authorized to establish and carry out a nationwide computerized student loan data system containing information regarding loans made, insured, or guaranteed under part B and loans made under part E. The information in the data system shall include— 20 USC 1092b.

"(1) the exact amount of such loans made;

"(2) the names, social security numbers, and addresses of the borrowers (and in the case of dependent students the names and addresses of the parents of such students);

"(3) the guaranty agency responsible for the guarantee of the loan in the case of loans made, insured, or guaranteed under part B; and

"(4) the institution of higher education or organization responsible for loans made under part E.

The information to be stored in the student loan data system established by this subsection shall be furnished by guaranty agencies for loans made, insured, or guaranteed under part B and by institutions of higher education for loans made under part E.

"(b) Access to Information.—(1) Subject to the provisions of paragraphs (2) and (3), and notwithstanding the provisions of section 552(a) of title 5, United States Code, relating to freedom of information, access to information in the data system established and maintained pursuant to subsection (a) of this section shall be re- stricted to individuals and Federal agencies, specifically authorized by the Secretary to have such access.

"(2) In carrying out this subsection, the Secretary shall approve access to information for—

"(A) research on student loan practices, student and parental indebtedness, repayment and debt collection trends, Federal costs associated with the guaranteed student loan program under part B of this title, including the cost of interest subsidies and special allowance payments;

"(B) the improvement of Federal debt collection practices and Federal criminal prosecutions under this title, relating to loans made, insured, or guaranteed under part B or loans under part E of this title;

"(C) furnishing information in response to an official request made by any committee of the Congress; and

"(D) any guaranty agency under part B, except that such access shall be limited to the name, social security number, and the amount of indebtedness, including the amount borrowed each year, of a borrower for whom the guaranty agency provides insurance.

"(3) No name, address, or social security number of any individual borrower may be made available to any requesting individual, Federal agency, or organization, unless the Secretary determines that the request is connected with the enforcement or debt collection responsibilities imposed by Federal law on such individual, agency, or organization.

Reports.

"(4) In carrying out this subsection, the Secretary shall require semiannual reports (continuing the information set forth in subsection (a) (1) and (2)) from each guaranty agency responsible for the guarantee of loans made, insured, or guaranteed under part B and any institution of higher education or proprietary institution responsible for a loan made under part E.

"(c) VERIFICATION NOT REQUIRED.—The Secretary shall not require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan under part B or part E.

"(d) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the Congress twice in each fiscal year a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

Contracts.
20 USC 1093.

"SEC. 486. (a) PROGRAM AUTHORITY.—The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities, or statewide programs.

"(b) USE OF FUNDS.—Financial assistance under this section may be used for—

"(1) development of materials and in-service training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1986.

"PROGRAM PARTICIPATION AGREEMENTS

20 USC 1094.

"SEC. 487. (a) REQUIRED FOR PROGRAMS OF ASSISTANCE; CONTENTS.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

"(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

"(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance, or for completing or handling the Federal Student Assistance Report provided for in section 483(e).

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

Reports.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this title.

"(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

"(7) The institution will comply with the requirements of section 485.

"(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application, the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.

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State and local governments.

"(9) In the case of an institution participating in a program under part B, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

"(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

"(b) Hearings.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

"(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing on the record and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

"(c) Audits; Financial Responsibility; Enforcement of Standards.—(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

"(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

31 USC 7501 *et seq.*

"(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

"(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll; and

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"(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

"(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

"(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

State and local governments.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"(d) **Definition of Eligible Institution.**—For the purpose of this section, the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"TRANSFER OF ALLOTMENTS

State and local governments.
20 USC 1095.

"Sec. 488. Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

20 USC 1096.

"Sec. 489. (a) **Amount of Payments.**—From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 447 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section.

"(b) **Purpose of Payments.**—The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"CRIMINAL PENALTIES

20 USC 1097.

"Sec. 490. (a) **In General.**—Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

"(b) **Assignment of Loans.**—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) INDUCEMENTS TO LEND OR ASSIGN.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than 5 years, or both.

"ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

20 USC 1098.

"SEC. 491. (a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the 'Advisory Committee') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

"(2) The purpose of the Advisory Committee is—

"(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

"(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

"(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

"(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f).

"(c) MEMBERSHIP.—(1) The Advisory Committee shall have 11 members of which—

"(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

"(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

"(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

"(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

"(d) FUNCTIONS OF THE COMMITTEE.—The Advisory Committee shall—

"(1) develop, review, and comment annually upon the system of needs analysis established under sections 411A through 411E and part F of this title;

"(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements; 100 STAT. 1493

"(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

"(4) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

"(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

"(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

"(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

"(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

"(A) 4 shall be appointed for a term of 1 year;

"(B) 4 shall be appointed for a term of 2 years; and

"(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

"(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

"(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

"(4) Six members of the Advisory Committee shall constitute a quorum.

"(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

"(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

"(g) COMPENSATION AND EXPENSES.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

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"(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code,

5 USC 5101 *et seq.*
5 USC 5331 *et seq.*

governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

Contracts.

"(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

"(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

"(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"(i) AVAILABILITY OF FUNDS.—An amount, not to exceed $500,000 in any fiscal year, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.".

20 USC 1091 note.

(b) EFFECTIVE DATES.—(1) Sections 483(e) and 484(d) of the Act as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(2) The changes made in section 484(a)(1) of the Act shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(3) Section 484(c) of the Act as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

(4) Sections 484(f), 485(b), and 487(a)(10) of the Act as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.

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SEC. 408. CONFORMING PROVISIONS.

(a) APPLICATION OF STUDENT FINANCIAL ASSISTANCE TECHNICAL AMENDMENTS TO ACADEMIC YEARS 1986-1987, AND 1987-1988.—The Student Financial Assistance Technical Amendments Act of 1982 is amended—

20 USC 1070a note, 1089 note, 1070a note.

(1) in sections 3, 4, and 6 by striking out "and 1986-1987" each place it appears and inserting in lieu thereof "1986-1987, and 1987-1988";

20 USC 1070a note.

(2) in section 5, by striking out "and 1986-1987" each place it appears and inserting in lieu thereof "1986-1987, and 1987-1988" in subsections (a), (b)(1), and (c);

(3) in section 5(b)(2), by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new subparagraph:

"(D) for the period from October 1, 1984, through September 30, 1985, and the arithmetic mean of such index for the period from October 1, 1985, through September 30, 1986, in the case of academic year 1987-1988.";

(4) in section 5(b)(3)—

(A) by striking out "1985-1986), and" and inserting in lieu thereof "1985-1986),"; and

(B) by inserting before the period at the end thereof the following: ", and immediately after such publication for September 1986 (with respect to academic year 1987-1988)";

(5) in section 5(d), by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by inserting after such paragraph the following new paragraph:

"(4) not later than April 1, 1986, for academic year 1987-1988.";

(6) in section 9(a)—

20 USC 1078 note.

(A) by inserting "and" after "June 30, 1987"; and

(B) by striking out "from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1999,"; and

(7) in section 9(c), by inserting "and" at the end of paragraph (3) and by striking out paragraphs (5), (6), and (7).

(b) Repeal.—Effective with respect to any academic year beginning on or after July 1, 1988, the Student Financial Assistance Technical Amendments Act of 1982 is repealed.

20 USC 1001 note, 1070a note, 1070b-3 note, 1078 note, 1087bb note, 1221e-1 note, 1089 note; 42 USC 2752 note.

TITLE V—TEACHER TRAINING AND DEVELOPMENT

SEC. 501. REVISION OF TITLE V.

(a) Amendment.—Title V of the Act is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"STATEMENT OF PURPOSE; APPLICABILITY

"Sec. 501. It is the purpose of this title—

20 USC 1101.

"(1) to encourage the establishment and maintenance of programs that provide teacher training to individuals who are moving to careers in education from other occupations;

"(2) to promote university partnerships with local education agencies serving at-risk students, providing stronger linkages between teachers and such students, and with local labor, business, and professional associations;

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"(3) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills and expansion of their subject matter expertise, including pre-school and early childhood education specialists;

"(4) to improve the leadership and administrative skills of elementary and secondary school administrators;

"(5) to encourage academically qualified students to become teachers through scholarship assistance; and

"(6) to encourage States to assess their need for teachers and to plan for meeting current and projected teacher shortages.

State and local governments.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 502. (a) Mid-Career Teacher Training Programs.—For part A, there are authorized to be appropriated $3,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

20 USC 1101a.

"(b) School, College, and University Partnerships.—For part B, there are authorized to be appropriated $15,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“(c) Professional Development and Leadership Programs.—(1) For subpart 1 of part C, there are authorized to be appropriated $15,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“(2) For subpart 2 of part C, there are authorized to be appropriated $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“(d) Teacher Scholarships and Fellowships.—(1) For subpart 1 of part D, there are authorized to be appropriated $13,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“(2) For subpart 2 of part D, there are authorized to be appropriated $2,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“(e) Task Forces on Teacher Education.—For part E, there are authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

“Part A—Midcareer Teacher Training for Nontraditional Students

“STATEMENT OF PURPOSE

20 USC 1103.

“Sec. 511. It is the purpose of this part to encourage institutions of higher education with schools or departments of education to establish and maintain programs that will provide teacher training to individuals who are moving to a career in education from another occupation.

“SELECTION PROCEDURES

Grants.
20 USC 1103a.

“Sec. 512. From the funds available for this part, the Secretary shall make grants to institutions of higher education on the basis of the competitive selection among qualifying applications. Institutions selected as recipients shall be awarded (1) an initial planning grant for use during the first 2 fiscal years after selection, and (2) for institutions demonstrating successful performance with the planning grant, a renewal grant for use during not more than 2 additional years.

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“APPLICATIONS

Grants.
20 USC 1103b.

“Sec. 513. (a) Contents of Applications.—Applications for grants under this part shall demonstrate that—

“(1) the applicant will establish and maintain a program of midcareer teacher retraining designed to prepare individuals for teacher certification requirements who already have a baccalaureate or advanced degree and job experience in education-related fields of study, including pre-school and early childhood education;

“(2) the applicant has designed a program which includes at least the following elements:

“(A) a screening mechanism to assure that individuals who are admitted to the program possess the current subject matter knowledge and the characteristics that would make them likely to succeed as classroom teachers;

“(B) a clear set of program goals and expectations which are communicated to participants; and

“(C) a curriculum that, when successfully completed, will provide participants with the skills and credentials needed to teach in specific subject areas, as well as a realistic perspective on the educational process;

“(3) the program has been developed with the cooperation and assistance of the local business community;

State and local governments.

“(4) the program will be operated under a cooperative agreement between the institution and one or more State or local educational agencies; and

"(5) the program will be designed and operated with the active participation of qualified classroom teachers, including early childhood education specialists, and will include an in-service training component and follow-up assistance.

"(b) REVIEW OF APPLICATIONS.—Applications for grants under this part shall be reviewed by a panel of experts in teacher training designated by the Secretary. The Secretary shall, to the extent of available funds, select at least one applicant from each of the 10 regions served by the Department and assure that programs offered reflect all significant areas of national need in which shortages exist.

"AMOUNT OF GRANTS

"SEC. 514. The initial planning grant to an institution of higher education under this part shall not exceed $100,000 for the 2 years for which it is available. The renewal grant to an institution under this part shall not exceed $50,000 for each of the 2 years for which it is available.

20 USC 1103c.

"REPORTS AND INFORMATION

"SEC. 515. Each institution of higher education that receives a grant under this part shall submit to the Secretary such reports and other information on the program it conducts under this part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education for the purpose of promoting greater use of midcareer teacher training programs without direct Federal financial assistance.

20 USC 1103d.

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"PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

"PURPOSE

"SEC. 521. It is the purpose of this part to encourage partnerships between institutions of higher education and secondary schools serving low-income students, to support programs that improve the academic skills of public and private nonprofit secondary school students, increase their opportunity to continue a program of education after secondary school and improve their prospects for employment after secondary school.

20 USC 1105.

"PARTNERSHIP AGREEMENT

"SEC. 522. (a) PARTNERSHIP AGREEMENT.—To be eligible for a grant under this part, an institution of higher education and a local education agency must enter into a written partnership agreement. A partnership may include businesses, labor organizations, professional associations, community-based organizations, or other private or public agencies or associations. All partners shall sign the agreement.

Grants.
20 USC 1105a.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnerships;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant in the partnership.

"GRANTS

"SEC. 523. (a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated for this part pursuant to section 502(b), the Secretary shall reserve 65 percent to carry out programs operating during the regular school year and 35 percent to carry out programs operating during the summer.

20 USC 1105b.

"(b) Amount and Use of Grants.—From such funds, the Secretary shall make grants of no less than $250,000 and no more than $1,000,000. The grants may be used by the partnership for programs that—

"(1) use college students to tutor secondary school students and improve their basic academic skills;

"(2) are designed to improve the basic academic skills of secondary school students;

"(3) are designed to increase the understanding of specific subjects of secondary school students;

"(4) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(5) are designed to increase the prospects for employment after graduation of secondary school students.

Disadvantaged persons.

"(c) Preferences.—In making grants under this part, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income communities;

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"(2) partnerships which will run programs during the regular school year and the summer; and

"(3) programs which will serve educationally disadvantaged students; potential dropouts; pregnant, adolescent, and teen parents; or children of migratory agricultural workers or of migratory fishermen.

"APPLICATION FOR GRANTS

20 USC 1105c.

"Sec. 524. (a) Application Required.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary.

"(b) Contents of Application.—The application shall include—

"(1) the written and signed partnership agreement;

"(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

"(3) a description of the programs to be developed and operated by the partnership;

"(4) assurances to the Secretary that—

"(A) the partnership will establish a governing body including one representative of each participant in the partnership;

"(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

"(C) a local educational agency receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education; and

"(D) a local educational agency receiving funds under this part shall use the Federal funds so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case may funds be used to supplant such non-Federal funds; and

"(5) provide such information and meet such conditions as may be required by the Secretary.

"COMMUNITY COLLEGE PILOT PROJECT

20 USC 1105d.

"Sec. 525. (a) Program Authorized.—In addition to the grants awarded under section 523, the Secretary is authorized to award 4 grants for pilot community college partnership projects under this section.

"(b) Partnership Agreements.—To be eligible for a grant under this section, a community college shall enter into a partnership agreement in accordance with section 522 with a local educational agency and at least one local business or industry.

"(c) AMOUNT AND USE OF GRANTS.—Grants under this section shall be no less than $250,000. The grants may be used by the partnership for programs that—

"(1) use college students to tutor secondary school students and improve their basic academic skills;

"(2) are designed to improve the basic academic skills of secondary school students;

"(3) are designed to increase the understanding of specific subjects of secondary school students;

"(4) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(5) are designed to increase the prospects for employment after graduation of secondary school students.

"(d) APPLICATION.—To receive a grant under this section, a community college shall submit an application in accordance with section 524(b).

"(e) AWARD OF GRANTS.—In making awards under this section, the Secretary shall give preference to applications indicating that the business or industry partner is engaged in technological or aerospace activities.

Michigan.
Vermont.
California.
Missouri.

"(f) ELIGIBLE INSTITUTIONS.—The institutions which may be awarded grants under this section are—

"(1) the Wayne County Community College of Wayne County, Michigan;

"(2) the Community College of Vermont;

"(3) the Compton Community College of Compton, California; and

"(4) the Metropolitan Community College of Kansas City, Missouri.

"(g) REPORTS AND INFORMATION.—Each community college that receives a grant under this subpart for establishing pilot projects shall submit to the Secretary such reports and other information as is requested in order to evaluate program effectiveness and to disseminate information on exemplary programs to other community colleges, area vocational-technical schools, and other institutions of higher education, for the purposes of promoting greater use of university-secondary school partnerships without direct Federal financial assistance.

"PART C—PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS

"SUBPART 1—PROFESSIONAL DEVELOPMENT RESOURCE CENTERS

"PROGRAM AUTHORITY AND PURPOSE

Grants.
20 USC 1107.

"SEC. 531. (a) AUTHORITY.—(1) The Secretary is authorized to make grants under this subpart to pay the Federal share of programs to assist teachers from public and private nonprofit schools in the continuous improvement of their professional skills and the expansion and updating of their subject matter expertise by establishing professional development resource centers for teachers.

"(2) The Federal share for each fiscal year shall be 50 percent.

"(b) PURPOSE.—It is the purpose of this subpart to assist in the establishment of professional development resource centers that will—

"(1) help teachers make effective use of educational tools including understanding new technologies and their application;

"(2) enhance teachers' subject matter expertise;

"(3) help teachers learn new classroom management techniques;

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"(4) help teachers learn and apply the latest research on learning and teaching, including pre-school and early childhood education and development; and

"(5) help teachers to apply creative approaches toward achieving instructional goals, including making the best use of available community resources.

"GEOGRAPHICAL DISTRIBUTION OF GRANTS

State and local governments.
20 USC 1107a.

"SEC. 532. In making grants under this subpart, the Secretary shall ensure that eligible applicants within each State receive sufficient funds to plan, establish, or operate at least one professional development resource center within the State in each fiscal year.

"GRANT REQUIREMENTS

State and local governments.
20 USC 1107b.

"SEC. 533. (a) ELIGIBLE APPLICANTS.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies, in accordance with the provisions of this section, to assist such agencies in planning, establishing, and operating professional development resource centers.

"(b) DEFINITION OF CENTER.—For the purpose of this part, the term 'professional development resource centers' means any year-round program operated by a local educational agency, a combination of such agencies, or an educational service agency which serves teachers from public and private nonprofit schools, including pre-school and early childhood educational specialists, in a State or from an area or community within a State. Through the centers, teachers, with the assistance of such consultants and experts as may be necessary, including expertise available at institutions of higher education, shall conduct activities to advance the goal of professional excellence and to improve teaching skills for the teachers they serve.

"(c) USE OF FUNDS.—Grants under this subpart may be used for—

"(1) developing and disseminating curricula designed to meet the educational needs of students in pre-school and kindergarten through grade 12, in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula, and including the use of technology and telecommunications;

"(2) providing training to enable teachers to better meet the educational needs of students, including pre-school students, and to familiarize teachers with developments in curriculum, testing, and educational research including the manner in which the research can be used to improve classroom instruction;

"(3) providing for dissemination of information to those served by the center and to other professional development resource centers nationally about the activities and services of the centers;

"(4) bringing together teachers and materials from various school sites to serve as resources for teachers using the center;

"(5) encouraging collaborative activities between pre-school, elementary and secondary school teachers and faculty at institutions of higher education;

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"(6) encouraging the application of institutional and community resources to the goal of improving the quality of classroom instruction; and

Disadvantaged persons.

"(7) providing professional development opportunities for teachers of special population groups (pre-school, handicapped children, limited English proficient children, educationally and economically disadvantaged children) in rural settings.

"PROFESSIONAL DEVELOPMENT POLICY BOARD

20 USC 1107c.

"Sec. 534. Each professional development resource center shall be planned and operated under the supervision of a professional development policy board, the majority of which shall be representatives or designees of the public and private nonprofit, pre-school, elementary and secondary classroom teachers to be served by such center. Such board shall also include individuals representative of, or designated by, school administrators, the school board (or boards) of the local educational agency (or agencies) served by such center, local business, and at least one representative designated by institutions of higher education, when such institutions are located within reasonable proximity of the center, including (but not limited to) institutions that have departments, schools, or colleges of education.

"SUBMISSION AND APPROVAL OF APPLICATIONS

Grants.
State and local governments.
20 USC 1107d.

"Sec. 535. (a) Submission.—(1) Any local educational agency or any consortium of local educational agencies including educational service agencies, desiring to receive a grant under this subpart shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Secretary may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. The recommendations of the State education agency shall be taken into consideration by the Secretary in awarding grants under this part.

"(2) Each State education agency, in reviewing local educational agency applications for a grant under this subpart, shall seek to assure an equitable within-State geographical distribution of center grant funds so that both large urban and small rural school districts are served.

"(b) Minimum Requirements.—A grant under this subpart may be made only if the application provides—

"(1) satisfactory assurances that the program designed for the professional development resource center is based on a thorough assessment of instructional and professional development needs identified by the teachers to be served, including early childhood educational specialists, and establishes goals for the center derived from such assessment;

"(2) satisfactory assurances that the program the center plans to provide will meet the needs of the teachers served, including assurances that center activities will lead to in-depth and incremental knowledge and skill development;

"(3) a description of the activities planned to meet the center's goals;

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"(4) procedures for the conduct of a yearly evaluation of center activities;

"(5) satisfactory assurances that the center will employ a full-time center director who has had classroom teaching experience and other staff as may be necessary;

"(6) satisfactory assurances that the applicant will pay the non-Federal share of the cost of the program for which assistance is sought and that 50 percent of such non-Federal share shall be paid by the State educational agency and 50 percent of the non-Federal share shall be from local resources, including institutions of higher education and other public and private non-Federal sources; and

"(7) satisfactory assurances that the facilities of the center will not be used for the purpose of influencing the result of an election to an office in Federal, State, or local government or for the purpose of supporting or opposing any campaign for such office.

"(c) SELECTION PROCEDURES.—(1) In approving any application under this subpart, the Secretary shall take into account the resources which the applicant will provide in addition to Federal funds provided under this or any other Federal program.

"(2) In approving applications under this subpart, the Secretary shall substantially involve teachers, including early childhood educational specialists, in reviewing and recommending programs for funding.

Contracts.

"(d) SUBCONTRACTING.—Any local educational agency having an application approved under this subpart may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

"(e) RESERVATION FOR DIRECT EXPENDITURES.—Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that professional development resource centers be operated by local educational agencies, 10 percent of the funds expended under this subpart may be expended directly by the Secretary to make grants to institutions of higher education to operate professional development resource centers, subject to the other provisions of this subpart.

"SUBPART 2—LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT

"PURPOSE; INTENTION; REGULATIONS

State and local governments.
Minorities.
Women.
20 USC 1109.

"SEC. 541. (a) PURPOSE.—It is the purpose of this subpart to improve the level of student achievement in public and private nonprofit elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of public and private nonprofit elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

Contracts.

"(b) INTENTION.—It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

"(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

"(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

"(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

"(4) mastering and implementing objective techniques for evaluating teacher performance; and

"(5) improving communication, problemsolving, student discipline, time-management, and budgetary skills.

"(c) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out this subpart.

"ALLOCATION OF APPROPRIATIONS

20 USC 1109a.

"SEC. 542. Of the amount appropriated for this subpart for any fiscal year, the Secretary shall make available an amount as may be necessary for establishing and operating a technical assistance center in each State, but not less than $150,000 for each State.

"TECHNICAL ASSISTANCE CENTERS

"SEC. 543. (a) ELIGIBLE CONTRACTS RECIPIENTS.—The Secretary shall, subject to the availability of funds pursuant to section 542, enter into contracts with local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 544. State and local governments. 20 USC 1109b.

"(b) CONTRACT REQUIREMENTS.—Each contract entered into under subsection (a) shall require the contractor—

"(1) to make the services of the technical assistance center available to school administrators from any of the public and private nonprofit schools within the State served by that contractor;

"(2) to collect information on school leadership skills;

"(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

"(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators; Women. Minorities.

"(5) to operate consulting programs to provide personnel within school districts with advice and guidance on leadership skills;

"(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

"(7) to conduct programs which—

"(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

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"(B) offer internships in business, industry, and effective school districts to school administrators,

for the purpose of promoting improved leadership skills of such administrators;

"(8) to disseminate information on leadership skills associated with effective schools; and

"(9) to establish model administrator projects.

"(c) SELECTION OF CONTRACTORS.—In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

"GENERAL CRITERIA FOR CONTRACTS

"SEC. 544. (a) CONTRACT REQUIREMENTS.—The following criteria shall apply to each contract under this subpart: 20 USC 1109c.

"(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

"(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this subpart through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this subpart, (B) making in-kind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this subpart, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, private nonprofit schools, and local and State educational agencies.

"(3) The contract shall indicate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

"(4) The contract shall establish a system for the evaluation of the programs conducted.

"(b) DURATION OF CONTRACT.—Each contract under this subpart shall be for a term of 3 years subject to the availability of appropriations. Such contract shall not be renewable, except that a single 3-year extension may be granted if the contractor agrees to maintain the programs with assistance under this part reduced by one-half.

"DEFINITIONS

20 USC 1109d.

"SEC. 545. For the purpose of this subpart—

"(1) the term 'school administrator' means a principal, assistant principal, district superintendent, and other local school administrators; and

"(2) the term 'leadership skills' includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

"PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"SUBPART 1—CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAMS

"PURPOSE

20 USC 1111.

"SEC. 551. It is the purpose of this subpart to make available, through grants to the States, scholarships during fiscal years 1987 through 1991 to a maximum of 10,000 individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the pre-school, elementary or secondary level. Such scholarships shall be referred to as 'Congressional Teacher Scholarships'.

"ALLOCATION AMONG STATES

20 USC 1111a.

"SEC. 552. (a) PER CAPITA ALLOCATION.—From the sums appropriated for this subpart pursuant to section 502(d) for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"GRANT APPLICATIONS

State and local governments.
20 USC 1111b.

"SEC. 553. (a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 546 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) Content of Applications.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

"(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Congressional Teacher Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 555(b) of this part who receives a Congressional Teacher Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the 10-year period after completing the postsecondary education for which the Congressional Teacher Scholarship was awarded, teach, for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit elementary or secondary school in any State, in a public education program in any State, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 428(b)(4), the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 557 as required by the State agency; and

"(C) repay all or part of a Congressional Teacher Scholarship received under section 554 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 557, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 558;

"(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

"(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 557 and 558;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

Disadvantaged persons.

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

"(9) provides assurances that Congressional Teacher Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

"(c) Selection Criteria and Procedures.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

"(d) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

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"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines, including early childhood education and development); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

20 USC 1111c.

"SEC. 554. (a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c), each Congressional Teacher Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a pre-school, elementary or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) ASSISTANCE NOT TO EXCEED NEED.—Congressional Teacher Scholarship assistance awarded by the statewide panel established pursuant to section 555 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Congressional Teacher Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Congressional Teacher Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Congressional Teacher Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

"SELECTION OF CONGRESSIONAL TEACHER SCHOLARS

20 USC 1111d.

"SEC. 555. (a) SELECTION BY STATEWIDE PANELS.—Congressional Teacher Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, including preschool teachers, and parents.

"(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Congressional Teacher Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Congressional Teacher Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others. 100 STAT. 1509

"SCHOLARSHIP CONDITIONS

"SEC. 556. Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is— 20 USC 1111e.

"(1) enrolled as a full-time student in an accredited postsecondary institution;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SCHOLARSHIP REPAYMENT PROVISIONS

"SEC. 557. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 553(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart. 20 USC 1111f.

"EXCEPTIONS TO REPAYMENT PROVISIONS

"SEC. 558. (a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 553(b)(4)(C) during any period in which the recipient— 20 USC 1111g.

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit pre-school, elementary or secondary school or a public or private nonprofit pre-school, education program; or 100 STAT. 1510

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

20 USC 1111h. "SEC. 559. (a) **DISAPPROVAL HEARING REQUIRED.**—The Secretary shall not finally disapprove any application for a State program submitted under section 553, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) **SUSPENSION OF ELIGIBILITY.**—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) **COURT REVIEW.**—(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SUBPART 2—CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

"DECLARATION OF PURPOSE; DESIGNATION

20 USC 1113 "SEC. 561. (a) **PURPOSE.**—It is the purpose of this subpart to establish a national fellowship program for outstanding teachers.

"(b) **DESIGNATION.**—Individuals awarded fellowships under this subpart shall be known as 'Christa McAuliffe Fellows'.

100 STAT. 1511

"USE OF FUNDS FOR FELLOWSHIPS AND ADMINISTRATION

20 USC 1113a. "SEC. 562. Funds appropriated for any fiscal year for fellowships to outstanding teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 2.5 percent of such funds shall be used for purposes of administering this subpart.

"CHRISTA MCAULIFFE FELLOWSHIPS

20 USC 1113b "SEC. 563. (a) **AWARD DISTRIBUTION AND AMOUNTS.**—(1) Except as provided under paragraph (3), sums available for the purpose of this subpart shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Christa McAuliffe teacher fellows may not receive an award for 2 consecutive years. Subject to the repayment provisions of section 566, Christa McAuliffe teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least 2 years following the fellowship award.

"(3) If the appropriation for this subpart under section 502(d) is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 564.

"(b) USE OF AWARDS.—Christa McAuliffe teacher fellows may use such awards for such projects for improving education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

"SELECTION OF CHRISTA MCAULIFFE TEACHER FELLOWSHIPS

"SEC. 564. Recipients of Christa McAuliffe teacher fellowship in each State shall be selected (in accordance with section 565) by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education. 20 USC 1113c.

"EVALUATION OF APPLICATIONS

"SEC. 565. (a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.— 20 USC 1113d.
An applicant for Christa McAuliffe teacher fellowship assistance shall submit a proposal for a project under section 563(b), and shall

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indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local education agency for comment prior to submission to the statewide panel (appointed under section 564) for the State within which the proposed project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting 2 recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to education; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

"(b) PUBLIC ANNOUNCEMENT.—Announcement of awards shall be made in a public ceremony.

"FELLOWSHIP REPAYMENT PROVISIONS

"SEC. 566. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance. 20 USC 1113e.

"PART E—STATE TASK FORCES ON TEACHER TRAINING

"STATE TASK FORCES ON TEACHER TRAINING

20 USC 1115. "SEC. 571. (a) IN GENERAL.—No institution of higher education or other entity in any State shall be eligible for assistance under this title for any fiscal year beginning on or after October 1, 1987, unless—

"(1) the State educational agency has established a task force on teacher training in accordance with the requirements of subsections (b) and (c); or

"(2) the Secretary waives the requirements of this section if the State educational agency has substantially complied with the requirements of paragraphs (1), (2), and (3) of subsection (b), and submits evidence to the Secretary showing such compliance.

"(b) TASK FORCE.—The State educational agency, in consultation with the task force established under this section, shall be responsible—

"(1) for conducting a statewide assessment of the State's needs for recruiting, retaining, retraining, and improving the performance of, instructional and administrative personnel in pre-schools, elementary and secondary schools within the State;

"(2) for developing plans to meet the needs identified pursuant to paragraph (1); and

"(3) for conducting such activities in cooperation with the State needs assessment required under section 208 of the Education for Economic Security Act (20 U.S.C. 3968).

"(c) MEMBERSHIP OF TASK FORCE.—A task force established under this section shall be composed of at least one representative of each of the following:

"(1) The Governor of the State.

"(2) The chief State school officer.

"(3) The State higher education executive officer.

100 STAT. 1513 "(4) The State board of education.

"(5) The deans of the schools or colleges of education within the State.

"(6) The presidents of colleges and universities within the State.

"(7) Pre-school, elementary and secondary school teachers.

"(8) Elementary and secondary school administrators, including local superintendents and principals.

"(9) The State legislature.

"(10) Private nonprofit pre-school, elementary and secondary education.

"(d) ALTERNATIVE MEMBERSHIP.—Any previously existing State organization or entity whose membership is substantially the same as the membership required by subsection (c) may, with the approval of the State educational agency, assume the responsibilities of the task force on teacher training under this section.

"(e) LONG-RANGE PLANNING.—From the funds available to carry out this subpart, a State educational agency may apply to the Secretary for assistance in order to develop a long-range plan, in consultation with the task force established under this section. Such plan shall—

"(1) assess the supply and determine the future needs of educators in the State, including early childhood education and development specialists;

"(2) assess the ability of teacher training institutions, the State educational agency, and local educational agencies within the State to meet such needs;

"(3) describe the steps being taken within the State to improve the qualifications and performance of practicing and prospective educators and the availability of training resources for such educators;

"(4) if determined to be appropriate by the State education agency, establish a program of competitive grants to local educational agencies, professional organizations, institutions of higher education, and consortia of such agencies and institutions within the State that are allocated in accordance with specific criteria developed by the task force on teacher training; and

"(5) provide for the performance of such other activities as are deemed appropriate to carry out purposes of this subpart.

"(f) DISPOSITION OF FUNDS TO STATES.—Funds appropriated for this subpart shall be allocated among the States based on the number of children aged 5 through 17, inclusive, except that no State shall receive less than the greater of $10,000 or 0.01 percent of the amount so appropriated.

"(g) STATE APPLICATIONS.—A State educational agency which desires to obtain a grant under this subpart shall file an application with the Secretary which—

"(1) describes the methods which will be used to insure active and continuing consultation with the task force;

"(2) provides for timely public notice and public dissemination of the information collected and plans developed; and

"(3) ensures that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary under this subpart.".

(b) CONFORMING AMENDMENT.—The Human Services Reauthorization Act (Public Law 98-558) is amended by striking out title IX, relating to leadership in educational administration development. 20 USC 4201-4206. 42 USC 9801 ote.

SEC. 502. TAFT INSTITUTE.

Section 1373 of the Education Amendments of 1980, relating to the Robert A. Taft Institute, is amended by inserting after "1985" a comma and the following: "$750,000 for the fiscal year 1986 and for each succeeding fiscal year ending prior to October 1, 1988". 94 Stat. 1502.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. FINDINGS AND PURPOSES.

Section 601 of the Act is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that— 20 USC 1121.

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.".

SEC. 602. LANGUAGE AND AREA CENTERS.

20 USC 1122.

(a) AUTHORITY TO MAKE GRANTS.—(1) Section 602(a)(1) of the Act is amended to read as follows:

"SEC. 602. (a)(1) The Secretary is authorized—

"(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

"(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.".

(2) Section 602(a)(2) of the Act is amended by striking out "or contract".

(3) Section 602(a)(3) is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)".

(b) STIPEND AND TRAVEL REQUIREMENTS.—Section 602 is further amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b)(1)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

"(B) Stipend recipients shall be individuals who are engaged in a program of competency-based language training, in a program of competency-based training, or in a program developing competency-based language training, in combination with area studies, international studies, or the international aspects of a professional studies program.

"(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2)(A) The Secretary is also authorized to award, on the basis of a national competition, stipends to students beginning their third year of graduate training.

"(B) Stipend recipients shall be selected by a nationally recognized panel of scholars on the basis of exceptional performance (on a nationally referenced test, if available) in the specialty language and evidence of substantial multidisciplinary area training.

"(C) Stipends may be held for up to a maximum 4 years contingent on periodic demonstration of a high level of language proficiency.

"(D) Stipends may be used for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.

"(3) The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available by grants under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1985 under paragraph (1).

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.".

SEC. 603. FOREIGN LANGUAGE RESOURCE CENTERS.

Section 603 of the Act is amended to read as follows:

"LANGUAGE RESOURCE CENTERS

"SEC. 603. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating language training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

Grants.
Contracts.
20 USC 1123.

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

"(3) the development and application of proficiency testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.".

SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

(a) CLARIFYING PROVISION.—The matter preceding clause (1) of section 604 of the Act is amended by striking out "comprehensive" each place it appears.

20 USC 1124.

(b) TYPE OF TRAINING.—Section 604(a)(7) of the Act is amended by inserting before "teacher" the following: "pre-service and in-service".

(c) MODEL PROGRAMS.—Section 604 is further amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1) The Secretary is also authorized to make grants to institutions of higher education whose applications are approved under subsection (a) for the purpose of providing assistance to model programs designed to improve and expand foreign language studies at those institutions. Any institution of higher education desiring to receive a grant under this subsection shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

Grants.

"(2)(A) An institution of higher education shall not be eligible for a grant under this subsection for a fiscal year unless—

"(i) the sum of the number of students enrolled at such institution in qualified postsecondary language courses on October 1 of that fiscal year exceeds 5 percent of the total number of students enrolled at such institution; and

"(ii) such institution requires that each entering student have successfully completed at least 2 years of secondary school foreign language instruction or requires that each graduating student have earned 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in a foreign language).

"(B) For the purpose of subparagraph (A)(i), the total number of students enrolled in an institution shall be considered to be equal to the sum of (i) the number of full-time degree candidate students enrolled at the institution, and (ii) the number of part-time degree candidate students who are enrolled at the institution for an academic workload which is at least half the full-time academic workload, as determined by the institution in accordance with standards prescribed by the Secretary.

Report.

"(3) As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs assisted with funds under this subsection and require an annual report which evaluates the progress and proficiency of students in such programs.".

SEC. 605. INTENSIVE SUMMER LANGUAGE INSTITUTES.

Title VI of the Act is further amended—

20 USC 1125–1127.

(1) by redesignating sections 605, 606, and 607 as sections 606, 609, and 610, respectively; and

(2) by inserting after section 604 the following new section:

"INTENSIVE SUMMER LANGUAGE INSTITUTES

20 USC 1124a.

"Sec. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

"(2) Training authorized by this section shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

"(B) institutes designed to provide professional development and improve language instruction through pre-service and in-service training for language teachers; or

"(C) institutes that combine the purposes of subparagraphs (A) and (B).

"(3) Grants made under this section may be used for—

"(A) intensive training in languages critical to the national economic and political future;

"(B) training in neglected languages; and

"(C) stipends for students and faculty attending the institutes authorized by this section.

"(4) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

"(b) Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.".

SEC. 606. RESEARCH; STUDIES; ANNUAL REPORT.

20 USC 1125.

(a) Research and Studies.—Section 606 (as redesignated by section 605 of this Act) is amended—

(1) by striking out "and part N of title III of the Elementary and Secondary Education Act of 1965";

(2) by striking out "and" at the end of paragraph (2);

(3) by redesignating paragraph (3) as paragraph (4);

(4) by inserting after paragraph (2) the following new paragraph:

"(3) the application of proficiency tests and standards across all areas of foreign language instruction and classroom use; and"; and

(5) by inserting "and publication" after "development" in paragraph (4) (as redesignated by this section).

(b) Conforming Amendment.—Subsection (b) of such section is amended to read as follows:

Report.

"(b) The Secretary shall prepare and publish an annual report listing the books and research materials produced with assistance under this title.".

SEC. 607. PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES.

Title VI of the Act is further amended by inserting after section 606 (as redesignated by section 605 of this Act) the following new section:

"PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES

"SEC. 607. (a) In addition to the amount authorized to be appropriated by section 609, there are authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years to provide assistance for the acquisition of, and provision of access to, periodicals published outside the United States. 20 USC 1125a.

"(b) From the amount appropriated under subsection (a) for any fiscal year, the Secretary shall make grants to institutions of higher education or public or nonprofit private library institutions or consortia of such institutions for the following purposes: Grants.

"(1) to acquire periodicals published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance;

"(2) to maintain current bibliographic information on periodicals thus acquired in machine-readable form and to enter such information into one or more of the widely available bibliographic data bases;

"(3) to preserve such periodicals; and

"(4) to make such periodicals available to researchers and scholars.

"(c) The Secretary shall approve as a recipient of a grant under this section only an institution or consortium which has an established library or consortium of libraries with collection strengths in either specific geographical areas of the world or particular fields or issues in world affairs which concern one or more countries, or both, and which demonstrates a commitment to share the resources of the collection. Libraries.

"(d) Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.".

SEC. 608. SELECTION OF GRANT RECIPIENTS.

Title VI of the Act is further amended by inserting after section 607 (as added by section 607 of this Act) the following new section:

"SELECTION OF GRANT RECIPIENTS

"SEC. 608. (a) The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluate the applications for comprehensive and undergraduate language and area centers and programs. 20 USC 1125b.

"(b) The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

"(c) The Secretary shall, to the extent practicable, award grants under this part (other than section 602(a)(1)) in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.".

SEC. 609. REAUTHORIZATION OF PART A.

Section 610 of the Act (as redesignated by section 605 of this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1127. "Sec. 610. There are authorized to be appropriated to carry out this part $49,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.".

SEC. 610. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

20 USC 1130. Section 611(a)(1) of the Act is amended by inserting "and educational" after "skills in the business".

SEC. 611. OVERSEAS INTERNSHIPS.

20 USC 1130a. Section 612(b) of the Act is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (9) the following new paragraph:

"(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies.".

SEC. 612. REAUTHORIZATION OF PART B.

Section 613 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1130b. "Sec. 613. There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.".

SEC. 613. ADVISORY BOARD.

Section 621 of the Act is amended to read as follows:

"ADVISORY BOARD

20 USC 1131. "Sec. 621. (a) Not less than 2 times each year the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of—

"(1) 5 members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area, or international studies;

"(2) 2 members selected by the Secretary from among members of the public; and

"(3) 2 members selected by the Secretary from among representatives of the business community.

"(b) The Secretary may consult with, or include as ad hoc ex officio participants in Advisory Board meetings, a representative from any appropriate executive agency.

"(c) The Advisory Board shall advise the Secretary on—

"(1) any geographic areas of special concern to the United States;

"(2) innovative approaches which may help to fulfill the purposes of this title;

"(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations;

"(4) emerging trends within various segments (pre-college, undergraduate, graduate, and postgraduate) of the international education community;

"(5) administrative and staffing requirements of international education programs in the Department; and

"(6) special needs with regard to the programs operated under part B.

"(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for parts A and B of this title.".

SEC. 614. DEFINITIONS.

Section 622 of the Act is amended— 20 USC 1132.

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end thereof the following:

"(5) the term 'comprehensive language and area center' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

"(6) the term 'undergraduate language and area center' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language an area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students.".

TITLE VII—CONSTRUCTION AND RENOVATION

SEC. 701. REVISION OF TITLE VII.

Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"PURPOSES

"SEC. 701. (a) IN GENERAL.—The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition and maintenance of special research and instructional instrumentation and equipment if the primary purpose of such assistance is to enable such institutions— 20 USC 1132a.

"(1) to bring their facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968; 42 USC 4151 note.

"(B) section 504 of the Rehabilitation Act of 1973; 29 USC 794.

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed; or

"(D) hazardous waste disposal, treatment, and storage requirements mandated by the Resource Conservation and Recovery Act of 1976, or similar State statutes; 42 USC 6901 note.

"(2) to more efficiently use available energy resources, especially coal, solar power, and other renewable energy resources; Energy.

"(3) to detect, remove, or otherwise contain asbestos hazards in academic and other facilities used by students, in accordance with regulations prescribed by the Secretary; Asbestos.

Libraries.

"(4) to construct, reconstruct, or renovate the Nation's academic research and instructional instrumentation and facilities, including libraries, and to acquire and maintain special research and instructional instrumentation and equipment;

"(5) to provide facilities for advanced skill training programs that relate to emerging technologies and skill needs;

"(6) with unusual increases in enrollment or with significant internal programmatic enrollment shifts (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

Preservation.

"(7) to preserve significant architecture.

"(b) PRIORITY ON RENOVATION.—In the awarding of grants under this title, priority shall be given to projects involving the renovation of facilities.

"APPROPRIATIONS AUTHORIZED

20 USC 1132a-1.

"SEC. 702. (a) PARTS A AND B.—There are authorized to be appropriated—

"(1) $15,000,000 for part A for fiscal year 1987,

"(2) $10,000,000 for part B for such fiscal year, and

"(3) such sums as may be necessary for parts A and B for each of the 4 succeeding fiscal years,

except that no funds may be appropriated for parts A and B for any such fiscal year unless at least $20,000,000 is appropriated for part E of this title for such fiscal year.

"(b) OTHER PROGRAMS.—There are authorized to be appropriated—

"(1) $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part C;

"(2) $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part D; and

"(3) $20,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part E.

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"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"STATE PLAN

20 USC 1132b.

"SEC. 711. (a) SUBMISSION AND CONTENTS OF PLAN.—Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) certifying the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) HEARING REQUIRED BEFORE DISAPPROVAL.—The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

"(c) Suspension for Noncompliance.—Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

"BASIC CRITERIA

State and local governments. Regulations. 20 USC 1132b-1.

"Sec. 712. (a) Secretary To Prescribe Criteria.—The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

"(b) Rulemaking Procedures Required.—Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

State and local governments. Grants. 20 USC 1132b-2.

"Sec. 713. (a) Use for Public Community Colleges and Technical Institutes; Others.—From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 percent shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted to States under subsection (c) for all other institutions of higher education.

100 STAT. 1523

"(b) Allotment for Public Community Colleges and Technical Institutes.—(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33 1/3 or more than 0.66 2/3;

Puerto Rico. Virgin Islands. American Samoa. Trust Territory of the Pacific Islands. Guam.

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66 2/3; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by the Secretary on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

"(c) Allotment for Other Institutions.—For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in grades 9 through 12 of schools in such State bears to the total number of students so enrolled in all the States.

"(d) Aggregate Limits and Ratable Reductions.—The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

100 STAT. 1524

"(e) Reallocation.—(1) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

"(2) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year shall be reallotted by the Secretary among the States which are able to use the funds without delay during the next fiscal year.

"(f) Use for Construction, Reconstruction, Renovation.—Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

"(g) Use for Maintenance.—In addition, an amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) research or instructional instrumentation and equipment, and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

20 USC 1132c.

"Sec. 721. (a) Grant to Institutions; State Limitation.—(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 percent of sums appropriated for this part.

"(b) Peer Review Required.—In making grants under this section, the Secretary shall utilize a national peer review panel. The National Peer Review Panel shall be broadly representative of all types and classes of institutions of higher education in the United States. Such panel shall make recommendations to the Secretary based on their assessment of—

"(1) the effectiveness of the program in the proposed use of Federal assistance; and

"(2) the extent to which the receipt of the grant will assist the institution in overcoming deficiencies in existing equipment and facilities.

"(c) COST LIMITATIONS.—The amount of the grant shall not exceed 50 percent of the development cost of the project. No funds or resources provided through Federal programs shall be used to meet the institution's share of the program supported under this section.

"(d) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) research or instructional instrumentation and equipment, and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) SELECTION OF RECIPIENTS.—From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that— 20 USC 1132d.

"(1) not less than 20 percent of the development cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under part F of this title.

"(b) TERMS OF LOANS.—Loans shall be repaid within 50 years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not more than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 percent, or (2) the rate of 5.5 percent per year, whichever is less.

"(c) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of a loan granted under this part which is allotted by the recipient to meet costs of—

"(1) research or instructional instrumentation and equipment, and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

100 STAT. 1526

"GENERAL PROVISIONS FOR LOAN PROGRAM

20 USC 1132d-1.

"SEC. 732. (a) CONCLUSIVENESS OF SECRETARY'S TRANSACTIONS.—Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

"(b) GENERAL AUTHORITY.—In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary may—

Regulations.

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

Courts, U.S.

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (A) such action shall not preclude any other action by the Secretary to recover any deficiency in the amounts loaned, and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

State and local governments.

"(4) sell, exchange, or lease real or personal property and securities or obligations;

Contracts.

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which the Secretary is a party, including—

"(A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment; and

"(B) granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (c) if the Secretary has received satisfactory assurances that the facilities financed with the loan will continue to be used for purposes related to the educational institution for the original term of the loan, and the prepayment is (i) made from non-Federal sources, (ii) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, (iii) made on a loan that has been outstanding for at least 5 years, and (iv) is made prior to October 1, 1991; and

100 STAT. 1527

26 USC 1 *et seq.*

Contracts.

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"(c) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

"(d) NONDISCRIMINATION BETWEEN BORROWERS IN OFFERING DISCOUNTED PREPAYMENT.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (b)(5), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1986, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

"(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

"REVOLVING LOAN AND INSURANCE FUND

"SEC. 733. (a) ESTABLISHMENT.—There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts. 20 USC 1132d-2.

"(b) MANAGEMENT OF FUND.—(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury 12 USC 1717.

100 STAT. 1528

"PART D—GRANTS TO PAY INTEREST ON DEBT

"ANNUAL INTEREST GRANTS

"SEC. 741. (a) GRANT AUTHORITY.—To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding 40 years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of 20 USC 1132e.

such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

"(b) Limits on Grants.—The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) State Allocation Limits.—The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 percent of sums appropriated for this section.

"(d) Requirements for Grants.—No annual interest grant shall be made unless (1) assurance is provided that not less than 10 percent of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"Part E—College Construction Loan Insurance Association

"CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION

20 USC 1132f.

"Sec. 751. (a) Purpose.—The Congress hereby declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereinafter referred to as the 'Corporation') which will, directly or indirectly, alone or in collaboration with others—

"(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose;

"(2) guarantee and insure leases of personal, real, or mixed property to be used for an education facilities purpose; and

"(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2).

100 STAT. 1529

"(b) Status as Non-Governmental Entity.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a 'Government corporation' nor a 'Government controlled corporation' as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

"(c) Corporate Powers and Limitations.—The Corporation shall be subject to the provisions of this part and, to the extent not inconsistent with this part, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

68 Stat. 177.

"(d) Definition of Education Facilities Purpose.—As used in this section, an 'education facilities purpose' includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of (1) education, training, or research facilities or housing for students, faculty, or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures, and equipment to be used in connection with any education or training facility or housing for students, faculty, or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

"CRITERIA FOR GUARANTEES AND INSURANCE

"SEC. 752. (a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for education facilities purposes only in accordance with the requirements of this section. 20 USC 1132f-1.

"(b) ALLOCATION OF REINSURANCE CAPACITY.—

"(1) At least the percentages specified in paragraph (2) of the aggregate dollar amount of bond and debenture issues reinsured by the Corporation shall be issues which, without insurance, are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

"(2) For the purpose of paragraph (1) of this subsection, the percentages specified in this paragraph shall be—

"(A) 10 percent for the first full year of operation of the Corporation;

"(B) 30 percent for the second full year of such operation; and

"(C) 50 percent for the third full year of such operation and thereafter.

"(3) No bond or debenture issue which is both reinsured and directly insured by the Corporation may be counted toward the fulfillment of the requirements of paragraph (1).

"(c) DIRECT INSURANCE AND GUARANTEE ACTIVITIES; LIMITATIONS.—

"(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of institutions which are, without 100 STAT. 1530 insurance or guarantee, listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

"(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

"(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

"(A) 10 percent for the first full year of operation of the Corporation;

"(B) 30 percent for the second full year of such operation; and

"(C) 50 percent for the third full year of such operation and thereafter.

"(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are— Bonds. Real property.

"(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose; and

"(B) leases of personal, real, or mixed property to be used for an education facilities purpose.

"(d) NOTICE OF SERVICES.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to each eligible institution.

"(e) NONDISCRIMINATION REQUIRED.—

"(1) The Corporation may not carry out any activities with respect to any educational facilities purpose of a participating institution if the institution discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition. 20 USC 1681.

"(2) The prohibition with respect to religion shall not apply to an educational institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"(3) Each participating institution shall certify to the Corporation that the institution does not discriminate as required by the provisions of paragraph (1).

"PROCESS OF ORGANIZATION

20 USC 1132f-2. "SEC. 753. The Secretary of the Treasury, the Secretary, and the Student Loan Marketing Association shall each appoint 2 persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1986, the Student Loan Marketing Association, after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, shall have the authority to name the incorporators 100 STAT. 1531 which have not been so appointed. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

"OPERATION AND ELECTION OF BOARD OF DIRECTORS

20 USC 1132f-3. "SEC. 754. (a) IN GENERAL.—The Corporation shall have a Board of Directors which shall consist of 11 members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary; 3 Directors shall be appointed by the Student Loan Marketing Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator. The failure of the Secretary or the Secretary of the Treasury to make any one or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of (1) the other directors who have been appointed or elected to assume and carry out their duties as directors and (2) the Board so constituted to act for all purposes as the full Board of the Corporation.

"(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-327(d)).

"INITIAL CAPITAL

20 USC 1132f-4 "SEC. 755. (a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter.

"(b) **Subscription by Secretary.**—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

"(c) **Subscription by Association.**—The Student Loan Marketing Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

"(d) **Annual Issuance.**—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000. Not less than 40 percent of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

"ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC

"Sec. 756. The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors. 20 USC 1132f-5.

"OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY

"Sec. 757. No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Student Loan Marketing Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes. 20 USC 1132f-6.

"AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL

"Sec. 758. (a) **Authority To Sell.**—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of plans of the Secretary. 20 USC 1132f-7.

"(b) **Purchase Price.**—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase. In no event shall the purchase price be less than the original issuance price.

"(c) **Board of Directors Elected After Majority Buy-Out.**—If the Student Loan Marketing Association acquires from the Secretary sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 754 (except subsection (b)) shall be of no further force or effect and the Board of Directors of the Corporation shall thereafter be elected entirely by the voting common shareholders.

"(d) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

100 STAT. 1533

"(e) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 755 and 756, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Student Loan Marketing Association and the Corporation.

"USE OF STOCK SALE PROCEEDS

20 USC 1132f-8 "SEC. 759. The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Student Loan Marketing Association or any other person shall be deposited in the general fund of the Treasury.

"AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS

20 USC 1132f-9 "SEC. 760. (a) ACCOUNTING.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

"(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 752.

"PART F—HOUSING AND OTHER EDUCATIONAL FACILITIES LOANS

"FEDERAL ASSISTANCE IN THE FORM OF LOANS

20 USC 1132g "SEC. 761. (a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist undergraduate postsecondary educational institutions in the construction, reconstruction, or renovation of housing, undergraduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

"(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

"(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

"(b) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any undergraduate postsecondary educational institution which, prior to the date of enactment of this section, has contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this title, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this section, or completed prior to the filing of an application under this title.

"(c) Amount and Conditions of Loans.—A loan to an undergraduate postsecondary educational institution—

"(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

"(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

"(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (d).

"(d) Use of Funds From Title IV of the Housing Act of 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the Higher Education Act Amendments of 1986 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

Post, p. 1545.

Contracts.

Securities.
31 USC 3101 *et seq.*

"(e) Use of Funds.—Not less than 10 percent of the funds held by the Secretary under subsection (d) shall be made available for loans under this part for each fiscal year.

"(f) Appropriation To Cover Notes and Obligations Not Covered by Loan Repayment.—There are authorized to be appropriated to the Secretary such sums as may be necessary, together with principal and interest payments made by postsecondary educational institutions assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.

100 STAT. 1535

Post, p. 1545.

"GENERAL PROVISIONS

"Sec. 762. (a) Budget and Accounting.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary notwithstanding the provisions of any other law, shall—

20 USC 1132g-1.

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

31 USC 9101 *et seq.*

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

31 USC 3501 *et seq.*

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefore, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

Real property.

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

Insurance.

"(6) obtain insurance against loss in connection with property and other assets held;

Contracts.

"(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (C) made on a loan that has been outstanding for at least 5 years; and

100 STAT. 1536

26 USC 1 *et seq.*

Contracts.

"(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

"(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

"(e) Nondiscrimination Between Borrowers in Offering Discounted Prepayment.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1986, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

"(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

"(f) Contracts for Supplies or Services.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

"(g) Applicability of Government Corporation Control Act.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part. 31 USC 9101 *et seq.*

"(h) Wage Rates.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors or any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1950— 12 USC 1701k note.

"(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and 40 USC 276a note.

"(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed; 100 STAT. 1537

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

"(i) Limitation.—No loan may be made under this part for any facility on the campus of any undergraduate postsecondary educational institution until 10 years after the date on which a previous loan for another facility on such campus was made under this part.

"APPORTIONMENT; PRIORITIES

"Sec. 763. (a) Apportionment.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State. 20 USC 1132g-2.

"(b) Priorities.—In awarding loans under this part, the Secretary shall give priority—

"(1) to loans for renovation or reconstruction of undergraduate academic facilities; and

"(2) to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

"DEFINITIONS

20 USC 1132g-3

"SEC. 764. For the purpose of this part:

"(a) HOUSING.—The term 'housing' means—

"(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

"(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

"(b) EDUCATIONAL INSTITUTION.—The term 'undergraduate postsecondary educational institution' means—

"(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

"(B) any public educational institution which—

"(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

"(ii) offers technical or vocational instruction; and

"(iii) provides residential facilities for some or all of the students receiving such instruction;

"(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

"(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

"(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

"(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 761, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

Grants.

"(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

"(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 761 to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

State and local governments.
12 USC 1703 note.

"(c) UNDERGRADUATE ACADEMIC FACILITIES.—(1) Except as provided in paragraph (2), the term 'undergraduate academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

Handicapped persons.

"(2) The term 'undergraduate academic facilities' shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

"(d) DEVELOPMENT COST.—The term 'development cost' means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

"(e) FACULTIES.—The term 'faculties' means member of the faculty and their families.

"(f) OTHER EDUCATIONAL FACILITIES.—The term 'other educational facilities' means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

"PART G—SPECIAL PROGRAMS

"WELCH HALL

"SEC. 771. (a) PROGRAM AUTHORITY.—In recognition of the unique architectural and historic significance to the education profession of Welch Hall, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for the purpose of the renovation and restoration of the physical facilities of Welch Hall.

Michigan.
20 USC 1132h.

"(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"ACADEMIC HEALTH EDUCATION CENTER AUTHORIZED

New York.
20 USC 1132h-1.

"SEC. 772. (a) ASSISTANCE AUTHORIZED.—The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the Rochester Institute of Technology located in Rochester, New York, to pay the Federal share of the cost of construction, and related costs (including equipment), for the Academic Health Education Center facility at the Rochester Institute of Technology, to be used as a national model for the integration of student academic, counseling, health, and professional development activities. The Center will integrate students and programs developed for the hearing-impaired.

100 STAT. 1540

"(b) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this section except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) For the purpose of this section, the Federal share of the cost of the Academic Health Education Center facility at the Rochester Institute of Technology shall not exceed 50 percent.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $1,800,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"ESTEY HALL

North Carolina.
20 USC 1132h-2.

"SEC. 773. (a) PROGRAM AUTHORITY.—In recognition of its historic and architectural significance as the first Black women's college dormitory, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Shaw University of Raleigh, North Carolina, for the purpose of the renovation and restoration of the physical facilities of Estey Hall.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $550,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"ELECTRONIC INSTRUCTIONAL NETWORK FOR GIFTED AND TALENTED STUDENTS

20 USC 1132h-3.

"SEC. 774. (a) ASSISTANCE AUTHORIZED.—In recognition of the benefits to be gained from applying existing and emerging technologies to classroom instruction, the Secretary is authorized, under the provisions of this section, to provide financial assistance to a 4-year postsecondary institution in cooperation with school districts, for the purpose of renovating, constructing, and equipping a facility incorporating such technological advances as two-way interactive video communications to extend an existing electronic instructional network for providing college and advanced level courses to talented and gifted secondary school students.

"(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

100 STAT. 1541

"MARY MCLEOD BETHUNE MEMORIAL FINE ARTS CENTER

Florida.
20 USC 1132h-4.

"SEC. 775. (a) GENERAL AUTHORITY.—In recognition of the remarkable career of Mary McLeod Bethune, founder and president of Bethune-Cookman College, founder and first president of the National Council of Negro Women, and confidant and advisor to Presidents of the United States, and in order to enhance the ability of Bethune-Cookman College to carry on the unique quality of service to the community and to the Nation that characterizes the life of Mary McLeod Bethune, the Secretary shall, in accordance with the provisions of this section, provide financial assistance to the Bethune-Cookman College in Volusia County, Florida, to enable the Bethune-Cookman College to establish the Mary McLeod Bethune Memorial Fine Arts Center.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) USES.—The financial assistance made available pursuant to this section shall be used for the construction of the Mary McLeod Bethune Memorial Fine Arts Center building, the acquisition of necessary equipment, and the acquisition of necessary real property for the establishment of the Center.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $6,200,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"UNIVERSITY OF CONNECTICUT BEHAVIORAL SCIENCE FACILITY

20 USC 1132h-5.

"SEC. 776. (a) GENERAL AUTHORITY.—The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the costs of the Behavioral Science Facility at the University of Connecticut, located at Storrs, Connecticut, to enable the University of Connecticut to expand collaborative research for the benefit of the region.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $1,300,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"UNIVERSITY OF RHODE ISLAND BUSINESS ADMINISTRATION PROGRAM

20 USC 1132h-6.

"SEC. 777. (a) GENERAL AUTHORITY.—The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the costs establishing a business administration program leading to a doctorate degree at the University of Rhode Island located at Kingston, Rhode Island, in order to enhance economic development of the southeastern New England region.

"(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

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"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $300,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

"PART H—GENERAL

"RECOVERY OF PAYMENTS

20 USC 1132i. "SEC. 781. (a) PUBLIC BENEFIT.—The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

Grants. "(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"DEFINITIONS

20 USC 1132i-1. "SEC. 782. The following definitions apply to terms used in this title:

"(1)(A) Except as provided in subparagraph (B), the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For the purpose of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v). 42 USC 293d.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purpose of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purpose of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary

furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility not to exceed 1 percent of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'maintenance', with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, 'maintenance' shall mean that portion of care above and beyond normal overhead costs.

"(5) The term 'Federal share' means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 percent of its development cost.

"(6) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

100 STAT. 1545

"(7) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree, or a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering 4 or more years of higher education which is located in a community different from that in which its parent institution is located.

"(8) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(9) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"SALES OF OBLIGATIONS REQUIRED

"SEC. 783. The Secretary shall sell, at public or private sale, obligations held under parts C and F of this title upon such terms as the Secretary may fix and in such amounts as the Secretary determines will carry out the directions in the concurrent resolution on the budget for the fiscal year 1987 (S. Con. Res. 120, 99th Congress, agreed to June 27, 1986), but the Secretary shall not sell obligations having a market value of more than $579,000,000 in fiscal year 1987 and more than $314,000,000 in fiscal year 1988.". 20 USC 1132i-2.

SEC. 702. CONFORMING PROVISION.

Title IV of the Housing Act of 1950 is repealed. 12 USC 1749-1749c.

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. COOPERATIVE EDUCATION REAUTHORIZED.

Title VIII of the Act is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"APPROPRIATIONS AUTHORIZED; RESERVATIONS

"SEC. 801. (a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this title $17,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years. 20 USC 1133.

"(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year—

"(1) not less than 75 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802;

"(2) not to exceed 12½ percent shall be available for demonstration projects under paragraph (1) of section 803(a);

"(3) not to exceed 10 percent shall be available for training and resource centers under paragraph (2) of section 803(a); and

"(4) not to exceed 2½ percent shall be available for research under paragraph (3) of section 803(a).

"(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

"GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

"SEC. 802. (a) GRANTS AUTHORIZED; MAXIMUM AMOUNT OF GRANT.—(1) The Secretary is authorized, from the amount available under section 801(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education, or to combinations of such institutions, to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions. 20 USC 1133a.

"(2)(A) Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(B) The amount of each grant shall not exceed $500,000 to any institution of higher education or combination of such institutions in any fiscal year.

"(b) APPLICATIONS.—Each institution of higher education, or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(1) set forth the program or activities for which a grant is authorized under this section;

"(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

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"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

"(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate candidates and who carry at least one-half the normal full time academic workload;

"(6) provide that the applicant will—

"(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

"(i) the number of students enrolled in the cooperative education program,

"(ii) the number of employers involved in the program,

"(iii) the income of the students enrolled, and

"(iv) the increase or decrease of enrollment in the program in the second previous year compared to such previous fiscal year; and

"(B) keep such records as are essential to insure that the applicant is complying with the provisions of this title;

"(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

"(8) include such other information as is essential to carry out the provisions of this title.

"(c) DURATION OF GRANTS; FEDERAL SHARE.—(1)(A) Except as provided in paragraph (3), no individual unit of an institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than 5 fiscal years.

"(B) The limitation contained in subparagraph (A) shall apply to each institution of higher education or participant in a combination of such institutions whether the grant was received before or after the date of enactment of the Higher Education Amendments of 1986.

"(2) The Federal share of a grant under this section may not exceed—

"(A) 90 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

"(B) 80 percent of such cost in the second such year;

"(C) 70 percent of such cost in the third such year;

"(D) 60 percent of such cost in the fourth such year; and

"(E) 30 percent of such cost in the fifth such year.

"(3) Any institution of higher education, or participant in a combination of such institutions which—

"(A) has received a grant for 5 fiscal years under this section;

"(B) has conducted without Federal assistance a cooperative education program for at least 2 academic years subsequent to the end of the fifth such fiscal year;

"(C) has expended for the cooperative education program for each such subsequent academic year an amount at least equal to the total cost of the program in the fifth fiscal year in which the institution, or participant, received assistance under this section; and

"(D) provides statistics in the application required under subsection (b) on the number of students enrolled in the cooperative education program, the number of institutional personnel, including faculty advisers and cooperative education coordinators, and the income of the students enrolled, for each such year;

may apply under subsection (b) as an institution, or participant, to which subparagraph (A) of paragraph (2) applies.

"(4) Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—(1) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

"(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers,

"(B) the commitment of the institution of higher education to cooperative education has demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance,

"(C) the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit, and

"(D) such other factors as are consistent with the purposes of this section.

Handicapped persons.
Minorities.

"(2) The Secretary shall also give special consideration to applications from institutions of higher education or combinations thereof which demonstrate a commitment to serving special populations such as women, the handicapped and Black, Mexican American Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian students.

"DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH

Grants.
Contracts.
20 USC 1133b.

"SEC. 803. (a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 801(b)(2);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

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"(B) improve materials used in cooperative education programs;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 801(b)(3); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 801(b)(4).

"(b) Administrative Provision.—To carry out this section, the Secretary may—

"(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

"(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(c) Supplement Not Supplant.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

TITLE IX—GRADUATE EDUCATION

SEC. 901. REVISION OF TITLE IX.

(a) Amendment.—Title IX of the Act is amended to read as follows:

"TITLE IX—GRADUATE PROGRAMS

"Part A—Grants to Institutions To Encourage Minority Participation in Graduate Education

"PROGRAM AUTHORIZED

20 USC 1134

"Sec. 901. The Secretary shall make grants to institutions of higher education to enable such institutions to identify talented undergraduate students who demonstrate financial need and are from minority groups underrepresented in graduate education, and provide such students with an opportunity to participate in a program of research and scholarly activities at such institution designed to provide such students with effective preparation for graduate study in such field or related fields.

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"SUBMISSION AND CONTENTS OF APPLICATIONS

20 USC 1134a.

"Sec. 902. (a) Required Information.—Each institution of higher education shall submit an application under this part to the Secretary in such form and containing such information as the Secretary may by regulation prescribe. Each such application shall provide information regarding—

"(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

"(2) the institution's plan for identifying and recruiting talented minority undergraduates;

"(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

"(4) a plan for the evaluation of the effectiveness of the program; and

"(5) such other assurances and information as the Secretary may require by regulation.

"(b) SELECTION REQUIREMENTS.—In making awards to institutions—

"(1) the Secretary shall consider the quality of the research in which students will be involved as well as the recruitment program and program of study; and

"(2) the Secretary shall ensure an equitable geographic distribution among public and private institutions of higher education.

"USE OF FUNDS

"SEC. 903. Awards made to institutions under this part shall be used exclusively to provide direct fellowship aid which may include need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution as approved by the Secretary. 20 USC 1134b.

"PART B—PATRICIA ROBERTS HARRIS FELLOWSHIPS

"STATEMENT OF PURPOSE; DESIGNATION OF AWARDS

"SEC. 921. (a) PURPOSE.—It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of a post-baccalaureate education to graduate and professional students who demonstrate financial need. 20 USC 1134d.

"(b) DESIGNATION.—Each recipient of such an award under this part shall be known as a 'Patricia Roberts Harris Fellow'.

"PROGRAM AUTHORIZED

"SEC. 922. (a) GRANTS BY SECRETARY.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part. 20 USC 1134e.

"(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school;

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

Minorities.

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) **Priorities for Fellowships.**—The Secretary shall assure that, in making grants under this part, awards are made to—

"(1) individuals who plan to pursue a career in public service; and

"(2) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1) and (2) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1985.

"(f) **Institutional Payments.**—From sums required to be expended by the Secretary for grants under subsection (e), the Secretary shall (in addition to the awards made to individuals) pay to the institution of higher education at which such individual is pursuing his or her course of study such amounts as are paid under similar fellowship programs administered through the National Science Foundation and other similar agencies, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

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"(g) **Use for Religious Purposes Prohibited.**—No fellowship shall be awarded under this part for study at a school or department of divinity.

"AWARD OF FELLOWSHIPS

20 USC 1134f.

"Sec. 923. (a) **Awards Based on Need.**—An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed the lesser of $10,000, or the demonstrated level of financial need as determined under part F of title IV of this Act.

"(b) **Requirements for Award.**—No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award of a degree) in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 3-year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"PART C—JACOB K. JAVITS FELLOWS PROGRAM

"AWARD OF NATIONAL GRADUATE FELLOWSHIPS

"SEC. 931. (a) NUMBER AND TIMING OF AWARDS.—The Secretary is authorized to award not more than 450 fellowships per year in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only one academic year of study and shall be renewable for a period not to exceed 4 years of study. 20 USC 1134h.

"(b) DESIGNATION OF FELLOWS.—Students receiving awards under this part shall be known as 'Jacob K. Javits Fellows'.

"(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program 100 STAT. 1553 and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

"ALLOCATION OF FELLOWSHIPS

"SEC. 932. (a) FELLOWSHIP BOARD.—(1) The Secretary shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than 9 and not more than 15 individuals prior to July 31, 1987, 13 individuals after July 31, 1987, and prior to August 1, 1989, 11 individuals after July 31, 1989, and prior to August 1, 1991, and 9 individuals after July 31, 1991, representatives of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences. 20 USC 1134i.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee [illegible] operation;

"(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

"(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of directing fellows; and

"(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate. Report

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

"(4) The term of office of each member of the Board shall be 4 years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

"(5) The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6)(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate prescribed for GS-18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

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"(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"STIPENDS

20 USC 1134j.

"SEC. 933. (a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary. The stipend levels established by the Secretary shall reflect the purpose of this program to encourage highly talented students to undertake graduate study and shall provide a level of support comparable to that provided by federally funded graduate fellowships in the science and engineering fields.

"(b) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $6,000.

"(2) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

"FELLOWSHIP CONDITIONS

20 USC 1134k.

"SEC. 934. (a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

"PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

"PURPOSE

"SEC. 941. In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of this part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

20 USC 1134*l*.

"GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS

"SEC. 942. (a) GRANT AUTHORITY.—(1) The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part.

20 USC 1134m.

"(2) The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1954, and is exempt from tax under section 501(a) of such Code;

"(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

"(C) is not a private foundation;

"(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

"(E) has necessary research resources not otherwise readily available in such institutions to such students.

"(b) AWARD AND DURATION OF GRANTS.—(1) The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

"(2) The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $500,000 per fiscal year

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"(3) Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

"(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—(1) The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

"(2) To the extent that appropriations under this part are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

"INSTITUTIONAL ELIGIBILITY

20 USC 1134m.

Grant.

"SEC. 943. (a) ELIGIBILITY CRITERIA.—Any academic department or program of an institution of higher education that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of post-baccalaureate study has been in existence for at least 4 years at the time of application for assistance under this part.

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, geosciences, computer science, or foreign languages or areas studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support post-baccalaureate study in the area concerned.

"CRITERIA FOR APPLICATIONS

Grants.
20 USC 1134o.

"SEC. 944. (a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

"(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

"(1) describe the current academic program of the applicant for which the grant is sought;

"(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

"(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

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"(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

"(A) have financial need, as determined under criteria developed by the institution;

"(B) have excellent academic records in their previous programs of study;

"(C) plan teaching or research careers; and

"(D) plan to pursue the highest possible degree available in their course of study;

"(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this part and in no case to supplant those funds;

"(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

"(7) provide that the applicant will comply with the limitations set forth in section 945; and

"(8) include such other information as the Secretary may prescribe.

"AWARDS TO GRADUATE STUDENTS

"SEC. 945. (a) COMMITMENTS TO GRADUATE STUDENTS.—(1) From at least 60 percent of the funds received under this part, an academic department or program of an institution of higher education shall make commitments to graduate students at any point of their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years. 20 USC 1134p.

"(2) No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

"(b) AMOUNT OF STIPENDS.—The size of the stipend awarded to students for an individual academic year shall be determined by the institution, except that no annual stipend award under this part may exceed $10,000, or the demonstrated level of need (according to criteria of need developed by the institution), whichever is less.

"(c) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award (1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or (2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

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"ADDITIONAL ASSISTANCE FOR COST OF EDUCATION

"SEC. 946. (a) USE FOR TUITION AND FEES.—From the remainder of the funds received under this part after complying with the requirements of section 945, the academic department or program of an institution of higher education may award fellowship recipients under section 945 additional amounts to pay the recipients' tuition and fees and other costs of education. 20 USC 1134q.

"(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

"PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"PROGRAM AUTHORIZED

20 USC 1134r.

"SEC. 951. (a) **GRANTS AND CONTRACTS.**—The Secretary is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) **USE OF FUNDS.**—Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than 6 months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in paragraphs (1) through (5).

"PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

State and local governments.
20 USC 1134s.

"SEC. 961. (a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

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"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) DEFINITION.—For the purpose of this part, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"APPLICATIONS

Grants.
Contracts.
20 USC 1134t.

"SEC. 962. (a) REQUIREMENTS.—A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as the Secretary may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

Reports.

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"PART G—AUTHORIZATION OF APPROPRIATIONS

"AMOUNT AND DURATION OF AUTHORIZATION

20 USC 1134u.

"SEC. 971. (a) PART A.—There are authorized to be appropriated to carry out part A of this title $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) PART B.—There are authorized to be appropriated to carry out part B of this title $30,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(c) PART C.—There are authorized to be appropriated to carry out part C of this title $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) PART D.—There are authorized to be appropriated to carry out part D of this title $30,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(e) PART E.—There are authorized to be appropriated to carry out part E of this title $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(f) PART F.—There are authorized to be appropriated to carry out part F of this title $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(g) LIMITATION ON APPROPRIATIONS FOR PARTS A AND D.—No funds are authorized to be appropriated for part A or D of this title for any fiscal year unless the appropriation for the preceding fiscal year—

"(1) for part B equals or exceeds $18,000,000; and

"(2) for part C equals or exceeds $5,000,000.".

20 USC 1134i note.

(b) EFFECTIVE DATE.—The amendments made to section 932 (a) and (c) of the Act by this section shall take effect with respect to individuals appointed to the Fellowship Board to fill vacancies occurring after the date of enactment of this Act on the Fellowship Board as constituted prior to the amendments made by this section. The Secretary shall make initial appointments under this subsection so that the terms of 3 members expire at the end of 2 years, 3 members expire at the end of 3 years, and 3 members expire at the end of 4 years.

TITLE X—IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1001. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

20 USC 1135a-1.

(a) FUNCTIONS.—(1) Section 1003(c)(2) of the Act is amended to read as follows:

"(2) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;".

100 STAT. 1561

(b) REAUTHORIZATION.—Section 1005 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1135a-3.

"SEC. 1005. There are authorized to be appropriated to carry out this part $14,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.".

SEC. 1002. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS.

Part B of title X of the Act is amended to read as follows:

"PART B—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

"SUBPART 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

"PURPOSE; AUTHORITY

20 USC 1135b. 42 USC 1862. 20 USC 3444.

"SEC. 1021. (a) It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act of 1979.

"(b) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

"GRANT RECIPIENT SELECTION

20 USC 1135b-1.

"SEC. 1022. (a) ESTABLISHMENT OF CRITERIA.—Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

"(b) **Priorities To Be Given in Criteria.**—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

"(c) **Required Criteria.**—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

"(1) plan of operation;
"(2) quality of key personnel;
"(3) budget and cost effectiveness;
"(4) evaluation plan;
"(5) adequacy of resources;
"(6) identification of need for the project;
"(7) potential institutional impact of the project;
"(8) institutional commitment to the project;
"(9) expected outcomes; and
"(10) scientific and educational value of the proposed project.

"USE OF FUNDS

"Sec. 1023. (a) **Types of Grants.**—Funds appropriated to carry out this subpart may be made available as— 20 USC 1135b-2.

"(1) institutional grants (as defined in section 1046(6));
"(2) cooperative grants (as defined in section 1046(7));
"(3) design projects (as defined in section 1046(8)); or
"(4) special projects (as defined in section 1046(9)).

"(b) **Authorized Uses for Each Type of Grant.**—(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

"(A) faculty development programs; or
"(B) development of curriculum materials.

"(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

"(A) assisting institutions in sharing facilities and personnel;
"(B) disseminating information about established programs in science and engineering;
"(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or
"(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

"(3) The authorized uses of funds made available as design projects include (but are not limited to)—

"(A) developing planning, management, and evaluation systems; or
"(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

"(4) The authorized uses of funds made available as special projects include (but are not limited to)—

"(A) advanced science seminars;
"(B) science faculty workshops and conferences;
"(C) faculty training to develop specific science research or education skills;
"(D) research in science education;
"(E) programs for visiting scientists;
"(F) preparation of films or audio-visual materials in science;
"(G) development of learning experiences in science beyond those normally available to minority undergraduate students;
"(H) development of pre-college enrichment activities in science; or

"(I) any other activities designed to address specific barriers to the entry of minorities into science.

"ADMINISTRATION

20 USC 1135b-3.

"Sec. 1024. The Secretary shall submit to the Congress on an annual basis a list of grantees receiving awards under this part.

100 STAT. 1563

"Subpart 2—Science and Engineering Access Programs

"MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS

20 USC 1135c.

"Sec. 1031. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

"SPECIAL SERVICE PROJECTS PROGRAM

20 USC 1135c-1.

"Sec. 1032. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

"SUPPORTABLE ACTIVITIES

20 USC 1135c-2.

"Sec. 1033. Funds appropriated for the purpose of this subpart may be made available for—

"(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

"(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

"(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

"(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

"(5) improving access of minority students to careers in the sciences, mathematics, and engineering;

"(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

"(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

"(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

"(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

100 STAT. 1564

"Subpart 3—Administrative and General Provisions

"ELIGIBILITY FOR GRANTS

20 USC 1135d.

"Sec. 1041. Eligibility to receive grants under this part is limited to—

"(1) public and private nonprofit institutions that are minority institutions (as defined in section 1046(3));

"(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

"(3) for the purposes of section 1032, public and private nonprofit institutions that have at least 10 percent minority enrollment.

"GRANT APPLICATION

20 USC 1135d-1.

"Sec. 1042. (a) Submission and Contents of Applications.—An eligible applicant (as determined under section 1041) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

"(1) a program of activities for carrying out one or more of the purposes described in section 1021(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

"(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) Approval Based on Likelihood of Progress.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

"CROSS PROGRAM AND CROSS AGENCY COOPERATION

State and local governments.
20 USC 1135d-2.

"Sec. 1043. The Minority Science and Engineering Improvement Programs shall cooperate with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

"ADMINISTRATIVE PROVISIONS

20 USC 1135d-3.

"Sec. 1044. (a) Technical Staff.—The Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*
5 USC 5331 *et seq.*
Contracts.

"(b) Procedures for Grant Review.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this title may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

100 STAT. 1565

"ADVISORY PROVISIONS

20 USC 1135d-4.

"Sec. 1045. (a) Advisory Board for the Minority Science and Engineering Improvement Programs.—There shall be established an Advisory Board for the Minority Science and Engineering

Improvement Programs. The Board shall consist of 9 members, at least 6 of whom must be racial and national origin minority scientists, engineers, or science or engineering educators. In constituting the initial Board under subsection (c), efforts shall be made to achieve a balance on the Board with respect to sexual, geographic, and institutional background.

"(b) PURPOSES OF THE BOARD.—The Board shall act as an advisory group to the program. Drawing on the expertise of members, the Board will recommend to the Secretary and the director of the program those policies, procedures, and other measures which will further the efforts made through the program to improve the quality of science and engineering education by contributing to the access and retention of ethnic minorities in science and engineering education programs. Upon the request of the Secretary, the Board may be called upon to advise the Secretary on any matters within the Department which could be expected to have an impact on the access of minority students to careers in science, mathematics, or engineering.

"(c) CONSTITUTION OF BOARD.—The initial Board shall be constituted as follows:

"(1) The Director of the Programs shall solicit nominations for the Board from present and past grant recipients of the Minority Institutions Science Improvement Program. The Director shall select from among the nominees 18 candidates whose names shall be given to the Secretary.

"(2) The Secretary shall choose 9 Board members from among the 18 presented.

"(3) The Secretary shall assign 3 Board members to a 3-year term, 3 members to a 4-year term, and 3 members to a 5-year term. Upon expiration of these initial terms, replacement Board members shall serve for 3-year terms. Board members may serve more than one term.

"(4) The Chair of the Board shall be selected by a simple majority vote of Board members and will serve a single term.

"(5) Vacancies on the Board shall be filled by the Board soliciting nominees from institutions eligible to receive grants through the Program. From among the nominees the present and immediate past Chair of the Board shall submit at least 2 nominees for each vacancy to the Secretary, who shall fill vacancies from among the names submitted.

"(d) COMPENSATION OF THE BOARD.—Members of the Board shall receive compensation at a rate not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board.

5 USC 5332.

100 STAT. 1566

"DEFINITIONS

20 USC 1135d-5.

"SEC. 1046. For the purpose of this part—

"(1) The term 'accredited' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

"(2) The term 'minority' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

"(3) The term 'minority institution' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

"(4) The term 'science' means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

"(5) The term 'underrepresented in science and engineering' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

"(6) The term 'institutional grant' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

"(7) The term 'cooperative grant' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

"(8) The term 'design projects' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

"(9) The term 'special projects' means—

"(A) a special project grant to a minority institution which support activities that—

"(i) improve the quality of training in science and engineering at minority institutions; or

"(ii) enhance the minority institutions' general scientific research capabilities; or

"(B) a special project grant to any eligible applicant which supports activities that—

"(i) provide a needed service to a group of eligible minority institutions; or

"(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

100 STAT. 1567

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1047. (a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this part, $7,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years. 20 USC 1135d-6.

"(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds under this part shall be allocated for the purpose of section 1021, 33.33 percent for the purpose of section 1031, and 16.67 percent for the purpose of section 1032.".

SEC. 1003. INNOVATIVE PROJECTS AUTHORIZED.

Title X of the Act is further amended by adding at the end thereof the following new part:

"PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"STATEMENT OF PURPOSE

"SEC. 1061. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs. 20 USC 1135e.

"INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

Grants.
Contracts.
20 USC 1135e-1.

"SEC. 1062. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

"(c) APPLICABLE PROCEDURES.—(1) No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) The provisions of section 1004(b) shall apply to grants made under this part.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1135e-2.

"SEC. 1063. (a) There are authorized to be appropriated to carry out this part, $3,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) No funds may be appropriated pursuant to subsection (a) for any fiscal year unless funds are appropriated for part A of this title for such fiscal year.".

100 STAT. 1568

SEC. 1004. TECHNICAL AMENDMENT.

The headings of title X, and of part A of title X, of the Act are amended to read as follows:

"TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

"PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION"

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

SEC. 1101. PROGRAM AUTHORIZED.

Title XI of the Act is amended to read as follows:

"TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

"PART A—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT

"FINDINGS AND PURPOSE

State and local governments.
20 USC 1136.

"SEC. 1101. (a) FINDINGS.—The Congress finds that—

"(1) there is a need for more systematic and comprehensive efforts to link postsecondary education institutions with State and local governments, labor, business, industry, and community organizations, in order to meet local problems, and to plan, maintain, and attract lasting economic improvement;

"(2) effective economic development is enhanced by the active participation of postsecondary education institutions;

"(3) the economic vitality and international competitiveness of the United States depends on using all available resources; and

"(4) Federal leadership is critical to promoting such competitiveness efforts.

"(b) **Purpose.**—The purpose of this part is to encourage the involvement of postsecondary education institutions with units of government, labor, business, industry, and community organizations to—

"(1) conduct planning, research, and activities which promote economic development and the expansion and retention of jobs on the local, State, and regional level;

"(2) develop programs for job retraining and expanding business and industry opportunities in the area;

"(3) enhance local growth initiatives through utilization of their expertise in economic and community development; and

"(4) demonstrate new approaches to economic development partnerships and to make them available to other areas of the Nation.

"USE OF ECONOMIC DEVELOPMENT FUNDS

20 USC 1136a.

"Sec. 1102. (a) **Allowable Activities.**—An eligible institution or consortium of such institutions may apply for assistance under this part to support—

100 STAT. 1569

"(1) planning and research (including applied research) directed at solving local economic development problems, promoting growth, and improving productivity;

"(2) resource exchanges between faculty, government personnel, and private sector experts in economic development activities; and

"(3) any combination of the activities described in subparagraphs (A) and (B) which promote local economic development.

"(b) **Special Projects Authorized.**—Special projects which may be supported under subsection (a)(2) are projects which address broad or national economic development issues, are innovative in their approach, and hold promise of application beyond the area served. Such projects may include—

"(1) the application of technology research to manufacturing aspects of mature industries in a region or State;

"(2) the design and development of technical assistance centers based at eligible institutions which will provide an integrated program of education, research, and technology transfer to business and industry;

"(3) projects to support entrepreneurship training and technical assistance; and

"(4) projects to develop new approaches or complement efforts to explore, expand, and foster opportunities for international business and trade.

Grants.

"(c) **Dissemination Projects.**—In addition to the activities described in subsections (a) and (b), the Secretary is authorized to make a limited number of grants to identify and disseminate effective models and techniques which use partnerships between postsecondary education institutions and others involved in economic development to support economic improvement.

"(d) **Maximum Grant.**—The maximum grant awarded under subsection (a) for any fiscal year shall be $50,000, except that the limitation contained in this paragraph shall not apply in the case of an application submitted by a consortium of eligible institutions.

"REQUIREMENTS FOR ECONOMIC DEVELOPMENT GRANT APPLICATIONS

State and local governments.
20 USC 1136b.

"Sec. 1103. (a) **Local Involvement.**—The Secretary may make grants under this part to an eligible institution or consortium of such institutions that demonstrates in its application a proposed program that will involve the active participation of and commitment of resources and personnel by—

"(1) local or State units of governments;

"(2) business or industry;

"(3) labor unions or union representatives; and

"(4) nonprofit organizations concerned with economic development in the area to be served.

"(b) General Conditions.—Each application under this part shall be filed with the Secretary at such time or times as the Secretary may prescribe. The application shall—

"(1) set forth a program which is likely to make substantial progress toward achieving the purposes of this part;

"(2) provide for an effective dissemination of information on successful results of the activities;

"(3) provide assurances that an assessment has been made of Federal and State resources and that the resources are unavail-

100 STAT. 1570

able for the proposed activity;

"(4) describe the consultation and, if appropriate, coordination with other Federal and State economic development efforts;

"(5) contain assurances that the eligible institution will, to the extent practicable, coordinate its use of resources available for student assistance in a manner which will support the activities conducted under this part;

"(6) describe how the plan fits into the overall economic development plan for the area to be served, contributes to long-term economic growth and employment opportunities, and furthers the goals of the postsecondary education institution; and

"(7) contain such other information and assurances as the Secretary may require by regulation.

"(c) Special Consideration.—In making grants under this part, the Secretary shall give special consideration to applications which—

"(1) propose to serve an area which—

"(A) has an unemployment rate 1 percent above the national average unemployment rate for the most recent 24-month period, or

"(B) has experienced or is about to experience sudden economic dislocation resulting in job loss that is significant, both in terms of the number of jobs eliminated and the effect upon the employment rate of the area;

"(2) are submitted by a consortia of postsecondary education institutions, including 4- and 2-year, public and private postsecondary education institutions, and provides a regional geographic approach to solving economic development problems; or

"(3) develop approaches which promote economic diversification for rural areas or areas whose economy is dependent upon a single industry or single employer.

"PART B—URBAN COMMUNITY SERVICE

"PURPOSE

20 USC 1137.

"Sec. 1111. It is the purpose of this part to encourage the use of urban universities as sources of skills, talents, and knowledge which can serve the urban areas in which they are located in meeting urban problems.

"USE OF URBAN COMMUNITY SERVICE FUNDS

20 USC 1137a.

"Sec. 1112. (a) Allowable Activities.—An eligible institution that is an urban university, or consortium of such institutions, may apply for assistance under this part to support cooperative projects through which such universities provide urban areas with applied research, planning services, specialized training, technical assistance or other services to address high priority needs of such urban areas.

"(b) Priority Needs.—Each eligible urban university shall establish high priority needs through consultation with local government, business, labor, or community-based organizations.

"CONTENTS FOR APPLICATIONS FOR URBAN COMMUNITY SERVICES PROJECTS

20 USC 1137b.

"Sec. 1113. (a) Evaluation and Selection of Applications.—An application submitted under this part shall—

"(1) contain assurances that the chief executive officer of the local government has been given a reasonable opportunity to review and comment on the proposed project or projects; and 100 STAT. 1571

"(2) show participation of any local agency of general government and of the community in the development and implementation of each project for which assistance is sought.

"(b) SELECTION PRIORITIES.—The Secretary shall give priority to applications which contain cooperative arrangements among urban universities, community colleges, and other institutions of higher education and other entities in the public, private, and nonprofit sectors within an urban area.

"PART C—GENERAL PROVISIONS

"ADMINISTRATIVE PROVISIONS

"SEC. 1121. (a) PEER REVIEW.—The Secretary shall designate a peer review panel to review applications submitted under parts A and B of this title and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with other appropriate Cabinet-level officials and non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of an equal number of representatives from public and private higher education, labor, business, and State and local government who have expertise in economic development and urban community service. 20 USC 1138.

"(b) DURATION OF GRANTS.—Subject to the availability of appropriations, grants under parts A and B may be made on a multiyear basis, except that no institution, individually or as a participant in a combination of such institutions may receive a grant for one project for more than 5 years.

"(c) GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under parts A and B in such a manner as to achieve broad and equitable distribution of assistance throughout the Nation.

"(d) NON-FEDERAL MATCH REQUIRED.—An applicant under parts A and B and the organizations associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in services, supplies, or equipment.

"(e) WAIVER OF MATCHING REQUIREMENT.—The Secretary may waive the requirement of subsection (d) with respect to an eligible institution that demonstrates a unique hardship that precludes its compliance with that requirement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1122. There are authorized to be appropriated to carry out parts A and B of this title $15,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years. The Secretary shall allocate 66⅔ percent of the funds appropriated under this title for part A and 33⅓ percent for part B. 20 USC 1138a.

"DEFINITIONS

"SEC. 1123. As used in this title— 20 USC 1138b.

"(1) the term 'eligible institution' has the meaning given such term by section 435(a) of this Act; 100 STAT. 1572

"(2) the term 'urban area' means a metropolitan statistical area having a population of not less than 500,000 individuals; or in any State which does not have a standard metropolitan statistical area which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purpose of this part; and

"(3) the term 'urban university' means an institution of higher education or a consortium of institutions of higher education, any one of which meets all the requirements of this paragraph which—

"(A) is located in an urban area,

"(B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous students from the urban area in which it is located or contiguous areas,

"(C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas,

"(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas,

"(E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and

"(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people.

"PART D—WAGNER INSTITUTE OF URBAN PUBLIC POLICY

"PURPOSE; DESIGNATION

New York. 20 USC 1139.

"SEC. 1131. It is the purpose of this part to provide assistance to the City University of New York to enable the University to establish a center to coordinate resources for the development of solutions to pressing urban and social problems. The institute shall be known as the 'Robert F. Wagner, Sr., Institute of Urban Public Policy' (hereafter in this part referred to as the 'Institute').

"APPLICATION FOR AND USE OF FUNDS

20 USC 1139a.

"SEC. 1132. (a) APPLICATION.—No payment may be made under this part except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) USE OF FUNDS.—Payments made under this part may be used by the City University of New York to establish and operate the Institute and to support the following activities of the Institute:

"(1) The Institute shall inventory and assess academic research, education, and training capabilities with respect to urban redevelopment strategies. The Institute shall ensure that information derived from this activity shall be available for use in public policy debates on solutions to urban problems.

"(2) The Institute shall conduct a series of forums to promote and coordinate decisionmaking on urban problems. Such forums shall be focused upon such issues as economic development, youth employment, law enforcement, education, services to the elderly, health care delivery systems, and immigration patterns. Participants in such forums shall be drawn from Federal, State, and local government, the business and professional community, labor, education, and community based organizations.

"(3) In developing topics for the forums to be conducted under paragraph (2), and in establishing priorities for the allocation of its resources, the Institute shall establish and regularly consult with an advisory council of urban advisors representing leaders in government, business, labor, education, and community based operations.

"(4) The Institute shall prepare and publish reports on the forums conducted pursuant to paragraph (2) and publish and disseminate the results of its research activities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1133. There are authorized to be appropriated to carry out this part, $2,000,000, which may remain available until expended.". 20 USC 1139b.

TITLE XII—GENERAL PROVISIONS

SEC. 1201. TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.

Section 1204 of the Act is amended— 20 USC 1144a.

(1) by striking out the first sentence of subsection (a) and inserting in lieu thereof the following: "Within 6 months after the date of enactment of the Higher Education Amendments of 1986, the Secretary shall promulgate regulations in accordance with the recommendations in the report entitled 'Postsecondary Education in the U.S. Territories' (May 1982) in order to adapt programs under this Act to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.";

(2) by striking out "October 1, 1985" in subsection (c) and inserting in lieu thereof "October 1, 1991,"; and

(3) by striking out subsection (b), by redesignating subsection (a) as subsection (b), and by inserting before such subsection the following new subsection:

"(a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria does not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Northern Mariana Islands. Priority shall be given to proposals submitted by these territories which otherwise meet program criteria.".

SEC. 1202. REAUTHORIZATION OF THE NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY.

Section 1205(f) of the Act is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1991". 20 USC 1145.

SEC. 1203. COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS.

Title XII of the Act is amended by adding at the end thereof the following new section:

"COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS

"SEC. 1206. (a) There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the 'Commission'). 20 USC 1145a.

"(b) The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

"(c)(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

"(2) A majority of the members of the Commission may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

"(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

"(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

"(d)(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department in determining institutional or programmatic eligibility for student participation in Federal student assistance programs under this Act with attention being given to the accreditation of various types of public and private postsecondary institutions and programs.

"(2) The study shall address, analyze, and report specifically on—

"(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

"(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

"(C) the adequacy of the current accreditation methodology and system;

"(D) alternative structures, standards, criteria, and processes that might be used in accrediting institutions and programs;

"(E) the indicators of educational quality that might be incorporated into the accreditation process;

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"(F) the educational outcome measurements that might be used in the accreditation process;

"(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

"(H) alternative approaches that might be used by the Secretary for institutional and programmatic recognition to permit student participation in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

"(3) The study shall also include an analysis of—

"(A) the processes and procedures currently utilized by the Secretary and the Department in determining institutional and program eligibility for receiving Federal student assistance funds;

"(B) the operations and effectiveness in carrying out eligibility determination of the division of the Department referred to as the 'Division of Eligibility and Agency Evaluation';

"(C) review of alternatives to accreditation in determining eligibility and their acceptability;

"(D) the role and effectiveness of, participation agreements, between institutions and programs and the Department in determining specific institutional program eligibility for Federal funds;

"(E) the ability of the Department to enforce conditions specified in participation agreements, including institutional and program audits;

"(F) the current status, functioning, and effectiveness of the National Advisory Committee on Accreditation and Institutional Eligibility, including its role in developing criteria for recognition of accrediting agencies and evaluating their success in assessing the quality of the education or training offered.

"(e) The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

"(f) The Commission shall prepare a narrative and statistical report consisting of— Report.

"(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

"(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and such background information as the Commission may request from the agency regarding the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reported complaints by the agency and its member institutions and programs.

"(g) The Commission shall also prepare a report on— Report.

"(1) the history, operation, procedures, and the role and adequacy of staff of the division described in subsection (e)(3)(B);

"(2) the history and current operations of the National Advisory Committee on Accreditation and Institutional Eligibility, including current criteria for Federal recognition of accrediting bodies, how the criteria were developed, possible modifications, and procedures for accomplishing this; and

"(3) with respect to the Department in general, an overview of its role in the institutional and programmatic recognition process as it relates to eligibility for Federal student assistance, including recommendations, if appropriate, on how this role might be changed and improved.

"(h)(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

"(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof. Contract.

"(2) In conducting the study authorized by this section, the Commission is authorized to—

"(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

"(B) arrange for the detail of staff personnel from other Federal agencies;

"(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

"(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

"(E) provide transportation and subsistence for persons serving without compensation.

"(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

Report.

"(i) The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committee of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than one year after funds are appropriated and made available for this study.

"(j) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.".

SEC. 1204. STUDENT REPRESENTATION.

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Title XII of the Act is further amended by adding at the end thereof the following new section:

"STUDENT REPRESENTATION

20 USC 1145bb.

"SEC. 1207. The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this Act, include individuals who are, at the time of appointment, attending an institution of higher education.".

SEC. 1205. FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS

20 USC 1145c.

"SEC. 1208. Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by (1) making advance payment of such tuition and fees, (2) making deposits in an escrow account administered by such institution for such payments, or (3) obtaining a bond or other insurance that such payments will be made.".

SEC. 1206. DISCLOSURES OF FOREIGN GIFTS.

(a) GENERAL RULE.—Title XII of the Act is further amended by adding at the end thereof the following new section:

"DISCLOSURES OF FOREIGN GIFTS

Contracts.
20 USC 1145d.

"SEC. 1209. (a) Whenever any institution receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

Report.

"(b) Each report to the Secretary required by this Act shall contain:

"(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

"(c) Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

"(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

State and local governments.

"(d)(1) If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

"(2) If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this Act, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a).

"(e) All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

"(f)(1) Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

"(2) For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

"(g) The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

"(h) For the purpose of this section—

"(1) the term 'contract' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

"(2) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

"(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

"(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

"(3) the term 'gift' means any gift of money or property;

"(4) the term 'institution' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

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"(A) is legally authorized within such State to provide a program of education beyond high school;

"(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

"(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

"(5) the term 'restricted or conditional gift or contract' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.".

20 USC 1145c.

(b) Repealer.—Section 1208 of the Act, as added by subsection (a) of this section, is repealed on August 1, 1989.

SEC. 1207. AGGREGATE LIMIT OF AUTHORIZATION OF APPROPRIATIONS.

Title XII of the Act is further amended by adding at the end thereof the following new section:

"AGGREGATE LIMIT OF AUTHORIZATION OF APPROPRIATIONS

20 USC 1145e.

"Sec. 1210. Notwithstanding any other provision of this Act, the total amount which may be appropriated to carry out the programs and activities authorized by this Act, other than the programs and activities authorized by subpart 1 of part A and part B of title IV, shall not exceed—

"(1) $3,166,000,000 for fiscal year 1987,
"(2) $3,351,000,000 for fiscal year 1988,
"(3) $3,552,000,000 for fiscal year 1989,
"(4) $3,771,000,000 for fiscal year 1990, and
"(5) $4,007,000,000 for fiscal year 1991.".

TITLE XIII—EDUCATION ADMINISTRATION

Part A—Secretarial Studies and Evaluations

SEC. 1301. SATISFACTORY PROGRESS.

20 USC 1091 note.

Report.

The Secretary, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by this Act to section 484(d) of the Act. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report of the survey required by this subsection, together with such recommendations as the Secretary deems appropriate.

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SEC. 1302. NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES.

20 USC 1121 note.

(a) Study Required.—The Secretary shall, in consultation with the Director of the United States Information Agency, the Director of the Agency for International Development, the Secretary of State, and the Secretary of Defense, conduct a study on the establishment of a National Endowment for International Studies. The study shall develop a program, a funding plan, and priorities for such an Endowment.

(b) Conduct of Study.—In carrying out the study required by this section, the Secretary shall consider—

(1) the extent of the need for international studies programs at all educational levels, not served by this title;

(2) the programs at the Agency for International Development, the United States Information Agency, and the Departments of State, Defense, and Education which can be coordinated to increase the scope and number and kinds of participants in international educational programs;

(3) the feasibility of an Endowment for International Studies, by whom it shall be administered, and procedures for receiving corporate and other private contributions for supplemental funding, similar to Treasury fund accounts at other Federal agencies; and

(4) a comprehensive evaluation of the weaknesses and strengths in international education and foreign language training at all levels of education in our Nation and the role of the Endowment to remedy these weaknesses, and encourage expansion of these strengths.

(c) Report.—The Secretary shall prepare and submit to the Congress, not later than one year after the date of enactment of this section, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

SEC. 1303. DATA STUDY REQUIRED.

20 USC 1221e-1 note.

(a) Conduct of Studies.—The Secretary shall, through the Office of Education Research and Improvement or the Center for Education Statistics, shall conduct the studies required by this section and submit reports thereon to the Congress not later than September 30, 1990. The reports shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(b) Cost Study Required.—(1) The Secretary shall conduct a study on the escalating cost of higher education. The study required by this section shall—

(A) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

(B) determine the specific causes of such changes in cost and the extent to which those causes have contributed to such changes,

(C) forecast the future cost of obtaining a higher education with consideration given to prospective demographic changes in student enrollments,

(D) evaluate the impact of such changes in cost on institutions of higher education, their students, and lower- and middle-income families,

(E) make recommendations on how such changes in cost can be minimized in the future, and

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(F) outline State and Federal policy options which may help to minimize such changes in cost in the future.

State and local governments.
Women.
Minorities.

(2) In conducting such study, the Secretary shall give special consideration to the impact of escalating costs on lower- and middle-income students and families, the impact of escalating costs on female and minority students, the impact of escalating costs on the career choices made by students, and the relationship between escalating costs and the Federal student financial assistance programs.

(3) During the conduct of such study, the Secretary shall consult frequently with the Department of Education, the Chairman of the Senate Committee on Labor and Human Resources, and the Chairman of the House Committee on Education and Labor.

(c) Student Aid Recipient Survey.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

(A) to identify the population of students receiving Federal student aid;

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

State and local governments. 20 USC 1221e-1.

(d) Teacher Supply and Demand.—(1) The Secretary shall utilize the legislative authority under section 406(b) of the General Education Provisions Act to annually assess current and future supply and demand for teachers with particular attention to—

(A) long-term and short-term shortages of personnel in various subject areas or teaching specialties;

(B) shortages in particular States or regions;

(C) the number of minorities entering teaching;

(D) the number of women and minorities entering educational administration;

(E) the effect of State curriculum and graduation requirements on the need for teachers in each State;

(F) the extent to which demographic characteristics of persons currently employed as teachers and persons studying to be teachers match the characteristics of the students in each State (race, age, sex);

(G) the academic qualifications of prospective teachers and the academic preparation of persons currently preparing to be teachers;

(H) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

(I) an assessment of new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students, with added emphasis on the preparation required to teach combined classrooms of handicapped, or other highly targeted groups of students and other students within a vocational education setting.

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(2) The analysis conducted under this subsection may include assessment of other educational needs identified by the Congress, including an assessment of the need for instructional equipment and materials in elementary and secondary schools and in institutions of higher education.

(e) Equitable Student Aid for Farm Families.—The Secretary shall conduct a study of financial aid formulas under title IV of the Act for students in postsecondary educational institutions with special attention to devising a more equitable formula for farm families.

Contracts. 20 USC 1011 note.

SEC. 1304. EVALUATION OF CONTINUING EDUCATION.

(a) Evaluation.—The Secretary shall enter into a contract with a qualified entity to study and evaluate the programs established under part A of this title.

(b) Secretary's Responsibilities.—The Secretary shall assist in evaluating the status and progress of adult education and postsecondary continuing education in achieving the purposes of this title. Such assistance shall include—

(1) an analysis of the findings of the report under subsection

(a) together with suggestions for improvements in planning or program operation; and

(2) an information network on research in adult and continuing education, the operation of model or innovative programs, successful experiences in the planning, administration, and conduct of adult and continuing education programs, and advances in curriculum and instructional practices and technologies.

(c) Report.—Not later than January 1, 1990, the Secretary shall submit a report to the Congress on the program evaluations required under this title and on any progress in fulfilling the goals and purposes of this title. The Secretary may include in the report appropriate recommendations or legislative proposals.

SEC. 1305. STUDY OF BANKRUPTCY TREATMENT OF STUDENTS.

11 USC 1301 *et seq.*

Report.

The Secretary shall conduct a study of the treatment of students under chapter 13 of title 11, United States Code, relating to the discharge of student loan indebtedness in bankruptcy proceedings, and of the effect of including such students under that provision of that law. The Secretary shall prepare and submit a report to the Congress on the study required by this section not later than 3 months after the date of enactment of this Act.

SEC. 1306. STUDY OF PELL GRANT LESS THAN HALF-TIME STUDENTS.

20 USC 1070a note.

Report.

The Secretary shall conduct a study to determine the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and by reason of having an expected family contribution of $0–$200 for the appropriate academic years. The Secretary shall prepare and submit a report to the Congress not later than September 30, 1988, on the results of the study required by this section.

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SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this part.

Part B—General Accounting Office Reports

SEC. 1311. STUDY OF PRACTICES OF STATE GUARANTY AGENCIES AND MULTISTATE GUARANTORS UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

20 USC 1071 note.

(a) Study Required.—The Comptroller General shall conduct a complete study of the practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program authorized by part B of title IV of the Act. The study shall investigate, on a comparative basis—

(1) due diligence practice of lenders;

(2) default rates and recovery rates on student loans;

(3) changes in loan volume;

(4) methods of soliciting student borrowers;

(5) potential for fraudulent double borrowing by students;

(6) participation agreements between the types of guarantor and lenders;

(7) eligible institution participation agreements;

(8) adequacy of reserved funds in relation to guaranty commitments made by the agency and the default risk which such commitments represent, as reflected by the socio-economic background of the borrowers, the category of institution attended, and the historical experience of the agency;

(9) types of services provided to lenders, eligible institutions, and borrowers;

(10) use of funds generated through participation in the guaranteed student loan program by amount and nature of

expenses for administrative support for programs other than the guaranteed student loan program;

(11) to what extent the guarantors meet the requirements of truth-in-lending provisions;

(12) profile of borrowers and defaulters of loans guaranteed by the agency and an assessment of the default risks inherent in such loans;

(13) coordination of the loan guaranty program with grant programs;

(14) general student access to loan assistance; and

(15) need for administrative cost allowances by particular guaranty agencies in relation to the default risk faced by the agency, the administrative costs incurred, or needed to be incurred by the agency, and other factors relevant to the cost of guaranteeing loans under the program.

(b) Report.—The Comptroller General of the United States shall prepare and submit a report, not later than 2 years after the date of enactment of this Act, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives on the findings of the study required by subsection (a) of this section, together with such recommendations as the Comptroller General deems appropriate.

20 USC 1071 note.

SEC. 1312. STUDY OF USE OF MULTIPLE-YEAR LINES OF CREDIT.

The Comptroller General shall evaluate the feasibility and efficiency of permitting students to establish lines of credit with eligible lenders under part B of title IV of the Act that cover more than 2 years of attendance at an institution of higher education. Such evaluation shall determine the extent to which such an arrangement would reduce the administrative costs associated with making separate loans annually under such part. In conducting such evaluation, the Comptroller General shall consult institutions of higher education and eligible lenders under such part. Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the results of such evaluation together with such recommendations as the Secretary considers appropriate.

Report.

20 USC 1071 note.

SEC. 1313. STUDY OF MULTIPLE DISBURSEMENT.

The Comptroller General shall evaluate the impact of the multiple disbursement system required for student loans under part B of title IV of the Act on the ability of both students and institutions of higher education to meet their expenses as they arise. Such evaluation shall include an assessment of any other impacts of such system on such students or institutions that the Comptroller General determines to be significant. A report on the results of such evaluation shall be submitted to the Congress not later than 2 years after the date of enactment of this Act.

Report.

20 USC 1071 note.

SEC. 1314. STUDENT LOAN CONSOLIDATION.

The Comptroller General shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this Act to part B of title IV of the Act and shall report to the Congress not later than 2 years after the date of enactment of this Act on the findings and recommendations required by this subsection.

PART C—COSTS OF POSTSECONDARY EDUCATION

20 USC 1221-1 note.

SEC. 1321. NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION.

(a) Findings.—The Congress finds—

(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future

of the American society, and the Nation's economic potential, its strength, security, and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

(2) that it is the responsibility of the Federal Government to establish a clearly defined national policy regarding—

(A) the role and expectations of respective institutions in society (the family unit, institutions of higher education, government, and the individual in financing the costs of postsecondary education); and

(B) the most efficient and effective use of limited Federal, State, and private resources for supplementing the family effort in financing postsecondary education and for creating incentives for individuals and families to plan for financing postsecondary education; and

(3) the appropriate response to economic, budgetary, demographic, and social changes which will require individuals, families, institutions of higher education, and government to plan and adapt to the future needs for student financial assistance for postsecondary education.

(b) Establishment of the Commission.—(1) There is established as an independent agency in the executive branch a commission to be known as the National Commission on Responsibilities for Financing Postsecondary Education (hereafter in this section referred to as the "Commission").

(2) The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 3 of whom shall be appointed by the Speaker of the House of Representatives, and 3 of whom shall be appointed by the majority leader of the Senate. The membership of the Commission shall provide expertise and experience in the provision and financing of postsecondary education, including student financial aid administrators, secondary school administrators, individuals skilled in education economics research, individuals having expertise in the development of standards and systems of need analysis for student assistance programs, and individuals with particular expertise in credit financing for postsecondary education.

(c) Duties of the Commission.—

(1) In general.—The Commission shall study and investigate the extent to which—

(A) there is a consistent and coherent Federal policy regarding the appropriate family role in financing the costs of postsecondary education for family members;

(B) the current Federal laws and regulations promote the stated Federal policy; and

State and local governments.

(C) the extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area.

(2) Report and recommendations.—The Commission shall—

(A) summarize the appropriate findings of the National Commission on Student Financial Assistance;

(B) recommend to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate role of the family in financing postsecondary education; and

(C) to the extent that a consensus exists, recommend changes in current law that would be required to achieve the desired Federal policy, including recommendations on Federal incentives to encourage families to plan and save for their financial responsibilities in financing postsecondary education for family members taking into account the needs of future generations.

(d) Specific Requirements.—In carrying out its responsibilities under subsection (c), the Commission shall make a study of the following areas:

(1) Need analysis.—

(A) The most appropriate mechanisms for measuring student and family ability to pay for postsecondary education.

(B) The incentives and disincentives for family saving in existing need analysis systems.

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(C) The feasibility and impact of different need analysis systems and eligibility formulas for determining student and family contributions for Federal and non-Federal grant, loan, and work-study programs.

(D) The extent to which existing systems of need analysis take into account the circumstances of older and nontraditional students, students with minor dependents, and divorced and separated parents.

(E) The extent to which existing systems of need analysis recognize differing regional economic conditions.

(F) The feasibility of a simplified need analysis system for determining ability to pay for low-income families, economically disadvantaged families, and families receiving public assistance benefits.

(G) The postsecondary education financing partnership, and the impact of external influences, such as economic conditions or State-level initiatives, that affect the balance of financial support among students and their families, the Federal Government, States, postsecondary institutions, credit institutions, and the private sector.

(2) Student independence.—The most appropriate mechanisms and factors to be considered in determining student independence and self-support and in determining when families should be expected to provide parental financial information in determining expected family contributions for Federal student assistance programs.

(3) Parental responsibility.—In consultation and cooperation with associations of higher education institutions and administrators, secondary schools, student and parent associations, and other organizations, the most effective means of reinforcing and promoting the principle of parental responsibility for contributing, to the extent that they are able, to the costs of their children's postsecondary education.

(4) Student responsibility.—The most effective mechanisms for measuring student ability to contribute to educational cost through earnings and savings, the extent to which such mechanisms reflect the circumstances of students from disadvantaged families, and the existing levels of student contributions from past, current, and future earnings.

(5) Institutional responsibility.—The most effective mechanisms of reinforcing and promoting the principle of institutional responsibility for providing need-based aid to students attending postsecondary institutions.

(6) Governmental responsibility.—The most efficient and appropriate mechanisms for providing student assistance from the various levels of government.

(7) Early information, planning, and information technology.—The extent to which programs providing early information on postsecondary education, costs, and financial aid programs to students and their families influence educational opportunity and family saving.

(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this part $1,000,000.

(f) Termination.—The Commission shall terminate 2 years after the initial appointment of members.

Part D—Library Resources

SEC. 1331. STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED.

20 USC 1029 note.

(a) **Study Required.**—The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 of the Act.

Ante, p. 1287.

(b) **Report to Congress.**—The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211 of the Act, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.

Part E—National Academy of Sciences Study

SEC. 1341. VOLUNTEERS.

20 USC 1221-1 note.

(a) **Study Required.**—The National Academy of Sciences shall conduct a thorough study of how volunteers can best be used in the classroom. The study required by this section shall include—

(1) the feasibility of using recipients of student loans made, assured, or guaranteed under part B of title IV of the Act or part E of such title as part of repayment of such loans;

(2) the use of older Americans as such volunteers;

(3) the use of business persons and other professionals as volunteers; and

(4) the place of incentives to encourage volunteerism.

The study required by this section shall examine the methods of using volunteers designed to provide the greatest flexibility for local educational agencies.

(b) **Reports Required.**—The National Academy of Sciences shall, not later than one year after the date of enactment of this Act, prepare and submit to the Congress their respective reports, together with a description of programs on the use of volunteers and with such recommendations as the Secretary deems appropriate.

(c) **Availability of Funds.**—The Secretary shall, from funds available for the administration of the Department of Education, make available not to exceed $500,000 for the study required by this section.

Part F—Faulkner University

SEC. 1351. RELIEF OF LIABILITY.

Alabama.

(a) **Relief of Liability.**—Faulkner University (formerly Alabama Christian College) of Montgomery, Alabama, is relieved of all liability—

(1) to repay to the United States the sum of $147,681.39, plus accrued interest, and

(2) to pay $7,822.50 to the National Direct Student Loan Fund of the Faulkner University,

representing payments inadvertently made pursuant to subpart 1 and subpart 2 of part A and part C of title IV of the Higher Education Act of 1965 and direct student loans inadvertently made under part E of such title IV prior to the receipt of eligibility status for the junior and senior years of the baccalaureate degree programs offered by Faulkner University. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

Ante, p. 1308.

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(b) **Special Rule.**—For the purpose of part B of title IV of the Higher Education Act of 1965, each student in attendance at the Faulkner University of Montgomery, Alabama, receiving a federally insured loan for the academic year 1981-1982 and for the academic year 1982-1983 pursuant to such part B shall be deemed to be in attendance at an eligible institution for that academic year.

PART G—ALIEN YOUTH EDUCATION OPPORTUNITY PANEL

20 USC 1091 note.

SEC. 1361. DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS.

(a) ESTABLISHMENT OF PANEL.—(1) There is established in the Department of Education a panel to be known as the "Alien Youth Education Opportunity Panel" (hereafter in this section referred to as the "Panel").

(2) The Panel shall be composed of 7 members, 3 of whom shall be appointed by the Secretary, 2 of whom shall be appointed by the Speaker of the House of Representatives, and 2 of whom shall be appointed by the Majority Leader of the Senate.

(b) DUTIES OF PANEL.—The Panel shall study and investigate the extent to which the requirements of section 484(a)(5) of the Act result in the denial of student assistance to long-term residents of the United States who have graduated from United States high schools and the extent to which that denial deprives those individuals of an equal educational opportunity.

(c) REPORT AND RECOMMENDATIONS.—The Panel shall submit a report of its findings and recommendations to the Secretary, the President, and the Congress not later than 2 years after the date of enactment of this section.

(d) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Secretary shall provide the Panel with such administrative and clerical support as it may require to carry out its activities under this section.

(e) COMPENSATION AND EXPENSES.—(1) Members of the Panel who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Panel who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Panel meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) ACCESS TO INFORMATION.—The Panel is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Panel.

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PART H—BOSTON COLLEGE

SEC. 1371. DEBT PROVISION.

The Secretary is directed to cancel all annual debt service obligations of the receiving institution for fiscal years 1987, 1988, 1989, and 1990 of which the total amount to be cancelled shall not exceed $2,700,000 adjusted as required in fiscal year 1990, for the Department of Education Project Loan #5-1-00665-0 dated August 5, 1981, and shall adjust the loan agreement to reflect the change required by this section without any other provision of law being applicable.

PART I—CARL ALBERT CONGRESSIONAL RESEARCH AND STUDIES CENTER

SEC. 1381. APPROPRIATION PROVISION.

Funds appropriated in Public Law 97-377 under the heading "HIGHER AND CONTINUING EDUCATION", for the Carl Albert Congressional Research and Studies Center, under the terms of H.R. 3598 (97th Congress) shall be available as a direct appropriation without regard to section 4(a) of H.R. 3598 (97th Congress).

TITLE XIV—EDUCATION RESEARCH AND STATISTICS

SEC. 1401. EDUCATIONAL RESEARCH AND IMPROVEMENT.

(a) OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.—Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a)(1) The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, handicap, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) The Congress further declares it to be the policy of the United States to—

"(A) promote the quality and equity of American education,

"(B) advance the practice of education as an art, science, and profession;

"(C) support educational research of the highest quality;

"(D) strengthen the educational research and development system;

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"(E) improve educational techniques and training;

"(F) assess the national progress of this Nation's schools and educational institutions, particularly special populations; and

"(G) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(3) For purposes of this section—

"(A) the term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act; 20 USC 3412.

"(B) the term 'Council' means the National Advisory Council on Educational Research and Improvement established by subsection (c);

"(C) the term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education;

"(D) the term 'Office' means the Office of Educational Research and Improvement established by section 209 of the Department of Education Organization Act; and 20 USC 3419.

"(E) the terms 'United States' and 'State' include the District of Columbia and the Commonwealth of Puerto Rico.

"(b)(1) It shall be the purpose of the Office to carry out the policies set forth in subsection (a) of this section. The Office shall be administered by the Assistant Secretary and shall include—

"(A) the National Advisory Council on Educational Research and Improvement established in subsection (c);

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"(B) the Center for Education Statistics established by section 406; and

"(C) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

Research.

"(2) The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the priority research and development needs described in paragraph (3).

Women.
Elderly persons.
Minorities.
Handicapped persons.
Disadvantaged persons.

"(3) The needs to which paragraph (2) apply are—

"(A) improving student achievement;

"(B) improving the ability of schools to meet their responsibilities to provide equal educational opportunities for all students, including those with limited English-speaking ability, women, older students, part-time students, minority students, gifted and talented students, handicapped students, and students who are socially, economically, or educationally disadvantaged;

"(C) collecting, analyzing, and disseminating statistics and other data related to education in the United States and other nations;

"(D) improving the dissemination and application of knowledge obtained through educational research and data gathering, particularly to education professionals and policy makers;

"(E) encouraging the study of the sciences, the arts, and the humanities, including foreign languages and cultures;

"(F) improving the data base of information on special populations and their educational status;

"(G) conducting research on adult educational achievement, particularly literacy and illiteracy as it affects employment, crime, health, and human welfare;

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"(H) conducting research on postsecondary opportunities, especially access for minorities and women; and

"(I) conducting research on education professionals, especially at the elementary and secondary levels including issues of recruitment, training, retention, and compensation.

Federal Register, publication.

"(4) The Secretary shall publish proposed research priorities in the Federal Register every two years, not later than October 1, and shall allow a period of sixty days for public comments and suggestions.

"(c)(1) The Council shall consist of fifteen members appointed by the President, by and with the advice and consent of the Senate. In addition, there shall be such ex officio members who are officers of the United States as the President may designate, including the Assistant Secretary. A majority of the appointed members of the Council shall constitute a quorum. The chairperson of the Council shall be designated by the President from among the appointed members. Ex officio members shall not have a vote on the Council. The members of the Council shall be appointed to ensure that the Council is broadly representative of the general public; the education professions, including practitioners; policymakers and researchers; and the various fields and levels of education.

"(2)(A) Except as provided in subparagraph (B), members shall be appointed to terms of three years.

"(B) Of the members first appointed—

"(i) five shall be appointed for terms of one year;

"(ii) five shall be appointed for terms of two years; and

"(iii) five shall be appointed for terms of three years;

as designated by the President at the time of appointment.

"(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of a term until a successor has taken office.

"(D) An appointed member who has been a member of the Council for six consecutive years shall be ineligible for appointment to the Council during the two-year period following the expiration of the sixth year.

"(3) The Council shall—

"(A) advise the Secretary and the Assistant Secretary on the policies and activities carried out by the Office;

"(B) review and publicly comment on the policies and activities of the Office;

"(C) conduct such activities as may be necessary to fulfill its functions under this subsection;

"(D) prepare such reports to the Secretary on the activities of the Office as are appropriate; and

"(E) submit, no later than March 31 of each year, a report to the President and the Congress on the activities of the Office, and on education, educational research, and data gathering in general.

Report.

"(d)(1) In order to carry out the objectives of the Office under this section, the Secretary within the limits of available resources shall—

"(A) conduct educational research;

"(B) collect, analyze, and disseminate the findings of education research;

"(C) train individuals in educational research;

"(D) assist and foster such research, collection, dissemination, and training through grants, cooperative agreements, and technical assistance;

"(E) promote the coordination of educational research and research support within the Federal Government and otherwise assist and foster such research; and

"(F) collect, analyze, and disseminate statistics and other data related to education in the United States and other nations.

"(2)(A) The Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or professional employees of the Office as the Secretary considers necessary to accomplish its functions. The Secretary may also appoint and compensate not more than one-fifth of the number of full-time, regular scientific or professional employees of the Office without regard to such provisions. The rate of basic pay for such employees may not exceed the maximum annual rate of pay for grade GS–15 under section 5332 of title 5 of the United States Code, except that the pay of any employee employed before the date of enactment of the Higher Education Amendments of 1986 shall not be reduced by application of such maximum pay limitation.

5 USC 5101 *et seq.*, 5332 *et seq.*

"(B) The Secretary may reappoint employees described in subparagraph (A) upon presentation of a clear and convincing justification of need, for one additional term not to exceed three years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

"(C) Individuals who are employed on the date of enactment of this Act and were employed by such Office on April 1, 1986, and who were employed under excepted hiring authority provided by section 209 of the Department of Education Organization Act or this section may continue to be employed for the duration of their current term.

20 USC 3419.

"(3)(A) The Secretary may carry out the activities in paragraph (1)—

"(i) directly;

Grants. Contracts.

"(ii) through grants, contracts, and cooperative agreements with institutions of higher education, public and private organizations, institutions, agencies, and individuals; and

"(iii) through the provision of technical assistance.

"(B) When making competitive awards under this subsection, the Secretary shall—

"(i) solicit recommendations and advice regarding research priorities, opportunities, and strategies from qualified experts, such as education professionals and policymakers, personnel of the regional education laboratories and of the research and development centers supported under paragraph (4), and the Council, as well as parents and other members of the general public;

"(ii) employ suitable selection procedures utilizing the procedures and principles of peer review, except where such peer review procedures are clearly inappropriate given such factors as the relatively small amount of a grant or contract or the exigencies of the situation; and

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"(iii) determine that the activities assisted will be conducted efficiently, will be of high quality, and will meet priority research and development needs under this section.

"(C) Whenever the Secretary enters into a cooperative agreement under this section, the Secretary shall negotiate any subsequent modifications in the cooperative agreement with all parties to the agreement affected by the modifications.

"(4)(A) In carrying out the functions of the Office, the Secretary shall, in accordance with the provisions of this subsection, support—

"(i) regional educational laboratories established by public agencies or private nonprofit organizations to serve the needs of a specific region of the Nation under the guidance of a regionally representative governing board, the regional agendas of which shall, consistent with the priority research and development needs established by subsection (b) (2) and (3), be determined by the governing boards of such labs;

"(ii) research and development centers established by institutions of higher education, by institutions of higher education in consort with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(iii) meritorious unsolicited proposals for educational research and related activities that are authorized by this subsection; and

"(iv) proposals that are specifically invited or requested by the Secretary, on a competitive basis, which meet objectives authorized by this subsection.

Grant. Contract. Federal Register, publication.

"(B) Prior to awarding a grant or entering into a contract for a regional educational laboratory or research and development center under subparagraph (A)(i) or (A)(ii), the Secretary shall invite applicants to compete for such laboratories and centers through notice published in the Federal Register.

"(C) Each application for assistance under subparagraph (A) (i) or (ii) as a regional educational laboratory or a research and development center shall contain such information as the Secretary may reasonably require, including assurances that the applicant will—

"(i) be responsible for the conduct of the research and development activities;

"(ii) prepare a long-range plan relating to the conduct of such research and development activities;

"(iii) ensure that information developed as a result of such research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

"(iv) provide technical assistance to appropriate educational agencies and institutions; and "(v) to the extent practicable, provide training for individuals, emphasizing training opportunities for women and members of minority groups, in the use of new educational methods, practices, techniques, and products developed in connection with such activities.

"(D) No grant may be made and no contract entered into for assistance described under subparagraph (A) (i) or (ii) unless—

"(i) proposals for assistance under this subsection are solicited from regional educational laboratories and research and development centers by the Office;

"(ii) proposals for such assistance are developed by the regional educational laboratories and the research and development centers in consultation with the Office; and

"(iii) the Office determines that the proposed activities will be consistent with the education research and development program and dissemination activities which are being conducted by the Office.

"(E) No regional educational laboratory or research and development center receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Office authorized by law.

"(F) The Secretary shall make available adequate funds to support meritorious, unsolicited proposals as described under subparagraph (A)(iii), and provide sufficient notice of the availability of such funds to individual researchers in all regions of the country.

"(5) The Secretary, from funds appropriated under this section, may establish and maintain research fellowships in the Office, for scholars, researchers, and statisticians engaged in the collection and dissemination of information about education and educational research. Subject to regulations published by the Secretary, fellowships may include such stipends and allowance, including travel and subsistence expenses provided for under title 5, United States Code, as the Secretary considers appropriate.

Grants.

"(6) The Secretary may award grants to institutions of higher education, including technical and community colleges as appropriate, to assess the new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students. The Secretary shall give special consideration to the preparation required to teach classrooms of handicapped, or other highly targeted groups of students, in combination with other nonhandicapped or other nontargeted students, within the same vocational education setting.

Handicapped persons.

Grant.

"(e)(1) In addition to the other responsibilities of the Office under this section, the Office shall carry out, by grant or cooperative agreement with a nonprofit educational organization, a National Assessment of Educational Progress which shall have as a primary purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communication, and other subjects and skills. Such a National Assessment shall—

Report.

"(A) collect and report at least once every five years data assessing the performance of students at various age or grade levels in each of the areas of reading, writing, and mathematics;

"(B) report periodically data on changes in knowledge and skills of such students over a period of time;

"(C) conduct special assessments of other educational areas, as the need for additional national information arises;

"(D) include in assessment activities information on special groups of individuals;

State and local governments.

"(E) provide technical assistance to State educational agencies and to local educational agencies on the use of National Assessment objectives, primarily pertaining to—

"(i) the basic skills of reading, mathematics, and communication, and

"(ii) on making comparisons of such assessments with the national profile (including special population profiles) and change data developed by the National Assessment; and

State and local governments.

"(F) with respect to each State which voluntarily participates in accordance with paragraph (5), provide a statement of information collected by the National Assessment for each such State.

"(2)(A) The organization through which the Office carries out the National Assessment shall be responsible for overall management of the National Assessment. Such organization shall delegate authority to design and supervise the conduct of the National Assessment to an Assessment Policy Committee, established by such organization. The Assessment Policy Committee shall be composed of—

"(i) five members appointed by the organization of whom two members shall be representatives of business and industry and three members shall be representatives of the general public; and

"(ii) fourteen members appointed by the organization from the categories of membership specified in subparagraph (B).

"(B) Members of the Assessment Policy Committee appointed in accordance with subparagraph (A)(ii) shall be—

"(i) one chief State school officer;
"(ii) two State legislators;
"(iii) two school district superintendents;
"(iv) one member of a State board of education;
"(v) one member of a local school board;
"(vi) one Governor of a State;
"(vii) four classroom teachers;
"(viii) one elementary school principal; and
"(ix) one secondary school principal.

"(C) The Assistant Secretary shall serve as an ex officio member of the Assessment Policy Committee. The Assistant Secretary shall also appoint a member of the Council to serve as nonvoting member of the Assessment Policy Committee.

"(D) Members appointed in accordance with subparagraph (A) (i) and (ii) shall be appointed for terms for three years on a staggered basis.

"(3) The Assessment Policy Committee established by paragraph (2) shall be responsible for the design of the National Assessment, including the selection of the learning areas to be assessed, the development and selection of goal statements and assessment items, the assessment methodology, the form and content of the reporting and dissemination of assessment results, and studies to evaluate and improve the form and utilization of the National Assessment. The appropriateness of all cognitive, background, and attitude items developed as part of the National Assessment shall be the responsibility of the Assessment Policy Committee. Such items shall be subject to review by the Department of Education and the Office of Management and Budget for a single period of not more than sixty days.

"(4) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, subject matter specialists, local school administrators, parents, and members of the general public. All items selected for use in the assessment shall be reviewed to exclude items which might reflect racial, sex, cultural, or regional bias.

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State and local governments.

"(5) Participation in the National Assessment by State and local education agencies selected as part of a sample of such agencies shall be voluntary.

Report.

"(6) The Secretary shall provide for a periodic review of the National Assessment. This review shall provide an opportunity for public comment on the conduct and usefulness of the National Assessment and shall result in a report to the Congress, the President, and the Nation on the findings and recommendations, if any, of the review. The Secretary shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

1597.

"(f)(1) There are authorized to be appropriated to carry out this section and section 406 of this Act, $72,231,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) The Secretary may not enter into a contract for the purpose of regional educational laboratories under subsection (d)(3)(A)(i) for a period in excess of five years.

"(3) Not less than 95 per centum of funds appropriated pursuant to this subsection for any fiscal year shall be expended to carry out this section through grants, cooperative agreements, or contracts.

"(4) When more than one Federal agency uses funds to support a single project under this section, the Office may act for all such agencies in administering those funds.

"(g)(1) In each fiscal year for which the total amount appropriated to carry out this section and section 406 of this Act equals or exceeds the total amount appropriated for fiscal year 1986 to carry out such sections—

"(A) not less than $17,760,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(ii) of this section (relating to centers);

"(B) not less than $17,000,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(i) of this section (relating to labs);

"(C) not less than $5,700,000 shall be available in each fiscal year to assist the education resources information centers pursuant to subsection (d)(3)(A) of this section;

"(D) not less than $4,000,000 shall be available in each fiscal year to carry out subsection (e) of this section (relating to the National Assessment of Educational Progress);

"(E) not less than $8,750,000 shall be available in each fiscal year to carry out section 406 of this Act (relating to the Center for Educational Statistics); and

"(F) not less than $500,000 shall be available in each fiscal year to carry out subsection (d)(4)(A)(iii) of this section (relating to field initiated research).

"(2) If the sums appropriated for any fiscal year are less than the amount required to be made available under subparagraphs (A) through (F) of paragraph (1), then each of the amounts required to be made available under such subparagraphs shall be ratably reduced. If additional amounts become available for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced.".

20 USC 1221e note.

(b) **Transition Provisions.**—On the effective date of this title, the property and records of the National Institute of Education shall be transferred to the Office of Educational Research and Improvement.

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20 USC 1221e note.

(c) **Employment Limitation Waiver.**—Notwithstanding the 3-year employment period limitation under section 405(d)(2) of the General Education Provisions Act, the Secretary may continue to employ for an indefinite period 3 individuals, selected by the Secretary, who are employed by the Office of Educational Research and Improvement on the date of enactment of this Act, were employed by such office on April 1, 1986, and were employed by the National Institute of Education under its excepted hiring authority immediately prior to employment by such office.

20 USC 3461.

(d) **Technical and Conforming Amendments.**—Section 401 of the Department of Education Organization Act (Public Law 96-88) is amended by striking out subsection (c).

SEC. 1402. CENTER FOR EDUCATION STATISTICS.

20 USC 1221e-1

(a) General Authority.—(1) Section 406 if the General Education Provisions Act is amended—

(A) by striking out subsection (e); and

(B) by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h) respectively.

(2) The heading of such section is amended to read as follows:

"CENTER FOR EDUCATION STATISTICS";

(3) Section 406(a) of the General Education Provisions Act is amended—

(A) in the first sentence by striking out "Office" and everything that follows through the end thereof, and inserting in lieu thereof "Office of Educational Research and Improvement, a Center for Education Statistics (hereafter in this section referred to as the 'Center')."; and

(B) in the second sentence, by striking out "an Administrator" and inserting in lieu thereof "a Director".

(4) Section 406(b) of the General Education Provisions Act is amended—

(A) in the first sentence by inserting ", and analyze," immediately after "collect";

(B) in paragraph (1) by inserting "if feasible, on a State-by-State basis," after "(1)"; and

(C) in paragraph (5) by striking out "Education Division" and inserting "Department of Education".

(5) Section 406(b) of the General Education Provisions Act is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and insert in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following:

"(6) access periodically the current and projected supply and demand for elementary and secondary school teachers (including teachers at the pre-school level) and early childhood education development personnel with particular attention to—

"(A) long-term and short-term needs for personnel in various subject areas or teaching specialities;

"(B) shortages in particular types of schools or communities, and in States or regions;

"(C) the number of minorities entering teaching;

"(D) the proportions of women and minorities in educational administration, and the trends over time;

"(E) the demographic characteristics, academic qualifications, job preparation, experience and skills of existing teachers and new entrants in the field of education;

"(F) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

"(G) the rate at which teachers leave teaching, their reasons for leaving, the sources of supply for new entrants, and the trends over time.".

USC 1221e-1.

(b) **Advisory Council.**—Section 406(c)(2) of the General Education Provisions Act is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(3) in subparagraph (A) (as redesignated by paragraph (2)), by striking out "Director of the National Institute of Education," and inserting "Assistant Secretary,".

(c) **Annual Report.**—Section 406(d)(1) of the General Education Provisions Act is amended by striking out "Assistant Secretary" and inserting "Secretary".

(d) **Statistical Records.**—Section 406(e) of the General Education Provisions Act (as redesignated in subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "(A)";

(B) by striking out the first sentence and inserting "The Center is authorized to furnish transcripts or copies of tables and other statistical records of the Office and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals. The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.";

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(C) in the fourth sentence by striking out "Assistant Secretary" each place it appears and inserting "Secretary"; and

(D) by striking out subparagraph (B); and

(2) by striking out paragraph (3).

(e) **Authorization of Appropriations.**—Section 406(f) of the General Education Provisions Act (as redesignated in subsection (a)(1)) is amended to read as follows:

"(f) Funds to carry out this section are authorized by section 405(g) of this Act.".

(f) **Uniform Financing Data.**—Section 406(g) of the General Education Provisions Act (as redesignated in subsection (a)(1)) is amended to read as follows:

State and local governments.

"(g) In addition to its other responsibilities, the Center shall collect uniform data from the States on the financing of elementary and secondary education. Each State receiving funds under the Education Consolidation and Improvement Act of 1981 shall cooperate with the Center in this effort.".

20 USC 1221e-1d.

SEC. 1403. USE OF COUNCIL STAFF AND FACILITIES.

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

SEC. 1404. SPECIAL PROJECTS UNDER THE SECRETARY'S DISCRETIONARY FUNDS.

20 USC 3851.

(a) Discretionary Programs.—Section 583(a)(1) of the Education Consolidation and Improvement Act of 1981 is amended by striking out ", including" and all that follows before the semicolon.

(b) Priority Funding.—Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended—

(1) by striking out "and" after the comma in paragraph (3);

(2) by inserting "and" after the comma in paragraph (4);

(3) by adding after paragraph (4) the following:

"(5) a National Diffusion Network program as described in subsection (c),";

(4) by striking out "paragraph (4))" and inserting "paragraph (4) and not less than 34 percent of funds reserved for the purposes of this section in the case of the program referred to in paragraph (5))".

(c) National Diffusion Network.—Section 583 of the Education Consolidation and Improvement Act of 1981 is amended by adding the following subsection (c):

"(c)(1) The National Diffusion Network program under subsection (b)(5) shall be a national program that recognizes and furthers excellence in education by: (A) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and (B) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

"(2) The program shall be directed toward improving the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(3) In carrying out the program the Secretary shall—

"(A) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(B) assist them in implementing programs, products, and practices, which those persons determine to hold promise for improving the quality of education in the schools for which they are responsible by providing materials, initial training, and ongoing implementation assistance;

"(C) ensure that all such programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(D) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(E) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers;

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"(4) For the purpose of carrying out the program the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.".

TITLE XV—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

SEC. 1501. SHORT TITLE.

20 USC 4401 note.

This title may be cited as the "American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act".

SEC. 1502. FINDINGS.

20 USC 4401.

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Native Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

SEC. 1503. DEFINITIONS.

20 USC 4402.

For the purpose of this title—

(1) The term "Indian art and culture" includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term "Native Hawaiian art and culture" includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term "Institute" means the Institute of American Indian and Alaska Native Culture and Arts Development established by this title.

(4) The term "Indian" means any person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

43 USC 1601 note.

(6) The term "Native Hawaiian" means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Board" means the Board of Trustees of the Institute established under this title.

PART A—AMERICAN INDIANS AND ALASKA NATIVES

20 USC 4411.

SEC. 1504. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is hereby established a corporation to be known as the "Institute of American Indian and Alaska Native Culture and Arts Development", which shall be under the direction and control of a Board of Trustees established under section 1505.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The corporation established under subsection (a) shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

20 USC 4412.

SEC. 1505. BOARD OF TRUSTEES.

(a) COMPOSITION.—

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) The voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after the date of enactment of this Act, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

President of U.S.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

Federal Register, publication.

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) TERMS OF OFFICE.—

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A)—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) VACANCIES.—Any member of the Board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B), a replacement shall be appointed in the same manner in which the original appointment was made.

(d) REMOVAL.—No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) CHAIRMAN AND VICE CHAIRMAN.—The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A). Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A), and the member filling such vacancy shall serve for the remainder of the unexpired term.

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(f) QUORUM.—Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) shall constitute a quorum.

(g) POWERS.—The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this title, including the organization and procedures of the Board.

(h) COMPENSATION.—Members of the Board appointed pursuant to subsection (a)(1)(A) shall, for each day they are engaged in the performance of the duties under this title, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(i) REVIEW BY THE SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, United States Code, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.

20 USC 4413.

SEC. 1506. EXECUTIVE BOARD.

(a) COMPOSITION.—The Board shall have an Executive Board composed of—

(1) the chairman of the Board;
(2) the vice chairman of the Board;
(3) the secretary of the Board;
(4) the treasurer of the Board; and
(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) VACANCIES.—In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) MEETINGS.—The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) QUORUM.—A majority of the Executive Board shall constitute a quorum.

(e) POWERS.—The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

20 USC 4414.

SEC. 1507. GENERAL POWERS OF THE BOARD.

In carrying out the provisions of this title, the Board shall have the power, consistent with the provisions of this title—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(6) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(7) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

Grants.
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(9) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(10) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this title;

(11) to obtain insurance or make other provisions against losses;

(12) to use any funds or property received by the Institute to carry out the purpose of this title; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this title and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

SEC. 1508. PRESIDENT OF THE INSTITUTE.

20 USC 4415.

(a) Appointment.—The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) Compensation.—The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS-18 of the General Schedule. 5 USC 5332.

SEC. 1509. STAFF OF INSTITUTE.

20 USC 4416.

(a) Exemption From Civil Service.—Except as otherwise provided in this section, title 5, United States Code, shall not apply to the Institute.

(b) Appointment and Compensation.—

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

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(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, applies. 5 USC 5332. 5 USC 5101 *et seq.*

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) **Appeal to Board.**—Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) **No Reduction in Classification or Compensation.**—Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) **Leave.**—

(1) Any individual who—

(A) elects under subsection (g) to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b), with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except

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that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) **Applicability.**—This section shall apply to any individual appointed after the date of enactment of this title for employment in the Institute. Except as provided in subsections (d) and (g), the enactment of this title shall not affect—

(1) the continued employment of any individual employed immediately before the date of enactment of this title, or

(2) such individual's right to receive the compensation attached to such position.

(g) **Termination of Civil Service Positions.**—

(1) At the end of the 2-year period beginning on the date referred to in section 1514(f), any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5, United States Code, may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

5 USC 8331 *et seq.*
Ante, p. 516.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the

case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) COLLECTIVE BARGAINING.—The Institute shall be considered an agency for the purpose of chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(i) WORKMEN'S COMPENSATION.—Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5, United States Code.

5 USC 8101 *et seq.*

SEC. 1510. FUNCTIONS OF THE INSTITUTE.

20 USC 4417.

(a) PRIMARY FUNCTIONS.—The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) ESTABLISHMENTS WITHIN INSTITUTE.—There shall be established within the Institute—

(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology; and

(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

(A) a museum of Indian arts;

(B) a learning resources center;

(C) programs of institutional support and development;

(D) research programs;

(E) fellowship programs;

(F) seminars;

(G) publications;

(H) scholar-in-residence and artist-in-residence programs; and

(I) inter-institutional programs of cooperation at national and international levels.

(c) OTHER PROGRAMS.—In addition to the centers and programs described in subsection (b), the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

SEC. 1511. INDIAN PREFERENCE.

20 USC 4418.

Contracts.
Grants.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Institute is authorized to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) Hiring Preference.—In carrying out section 1509(b)(1), the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

20 USC 4419.

SEC. 1512. NONPROFIT AND NONPOLITICAL NATURE OF THE INSTITUTE.

(a) Stock.—The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) Nonprofit Nature.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) Nonpolitical Nature.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

20 USC 4420.

SEC. 1513. TAX STATUS.

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

20 USC 4421.

SEC. 1514. TRANSFER OF FUNCTIONS.

(a) Institute of American Indian Arts.—There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) Certain Matters Relating to Transferred Functions.—

(1) All personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this title (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this title shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) References in Other Laws.—All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this title, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b), shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) Technical and Support Assistance.—During the 2-year period beginning on the date referred to in subsection (f), the Secretary of the Interior shall provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services.

(e) Advisory Board.—During the period beginning on the date of enactment of this title and ending on the date referred to in subsection (f), the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development.

(f) Effective Date.—The provisions of this section (other than subsection (e)) shall take effect on October 1, 1986.

SEC. 1515. REPORTS.

20 USC 4422.

(a) Annual Report.—The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) Budget Proposal.—

(1) During the 2-year period beginning on the date referred to in section 1514(f), the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.

(2) After the period described in paragraph (1) and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(3) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(4) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

SEC. 1516. HEADQUARTERS.

State and local governments.
20 USC 4423.

The site of the Institute of American Indian Arts, at Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Secretary may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

SEC. 1517. COMPLIANCE WITH OTHER ACTS.

20 USC 4424.

(a) In General.—The Institute shall comply with the provisions of—

(1) Public Law 95-341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) Criminal Laws.—All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

SEC. 1518. ENDOWMENT PROGRAM.

20 USC 4425.

(a) Establishment.—

(1) From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which shall be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

100 STAT. 1610 (2) The President of the Institute shall provide for the deposit into the trust fund described in paragraph (1)—

(A) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(B) any earnings on the funds deposited under paragraph (1) or subparagraph (A).

(3) Funds in the trust fund described in paragraph (1) shall be invested in a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time.

(4) If at any time the Institute withdraws any capital contribution made by the Institute to the trust fund described in paragraph (1), an equal amount of Federal capital contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(5) No part of the net earnings of the trust fund described in paragraph (1) shall inure to the benefit of any private person.

(6) The President of the Institute shall provide for such other provisions governing the trust fund described in paragraph (1) as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as are agreed to by the Secretary and the Institute, including recordkeeping procedures for the expenditure of accumulated interest which allow the Secretary to audit and monitor programs and activities conducted with such interest.

(b) Use of Funds.—Interest deposited pursuant to subsection (a)(2)(B) in the trust fund described in subsection (a)(1) may be periodically withdrawn and used, at the discretion of the Institute, to defray any expenses associated with the operation of the Institute, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(c) Compliance With Matching Requirement.—For the purpose of complying with the contribution requirement of subsection (a)(2)(A), the Institute may use funds which are available from any private or tribal source.

(d) Allocation of Funds.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of that Institute in accordance with subsection (a).

Part B—Native Hawaiians

20 USC 4441

SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN CULTURE AND ARTS DEVELOPMENT.

(a) In General.—The Secretary of the Interior is authorized to make grants for the purpose of supporting a program for Native Hawaiian culture and arts development to any private, nonprofit organization or institution which—

100 STAT. 1611 (1) primarily serves and represents Native Hawaiians, and

(2) has been recognized by the Governor of the State of Hawaii for the purpose of making such organization or institution eligible to receive such grants.

(b) Purpose of Grants.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

(c) MANAGEMENT OF GRANTS.—

(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) The members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) shall serve for a fixed term of office.

SEC. 1522. ADMINISTRATIVE PROVISIONS.

Grants.
20 USC 4442.

(a) PAYMENTS.—The Secretary may award grants under this part in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) RECOVERY OF OVERPAYMENTS.—

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this part which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this part,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) PENALTIES.—Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this part, or

100 STAT. 1612

(2) misappropriates any funds provided under this part,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

PART C—AUTHORIZATION OF APPROPRIATIONS

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

20 USC 4451.

(a) PART A.—There are authorized to be appropriated for the purpose of carrying out the provisions of part A of this title—

(1) for fiscal year 1987, $4,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(b) Part B.—There are authorized to be appropriated for the purpose of carrying out the provisions of part B of this title—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

TITLE XVI—UNITED STATES INSTITUTE OF PEACE

SEC. 1601. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Authorizations of Appropriations.—(1) The first sentence of section 1710(a) of the United States Institute of Peace Act (22 U.S.C. 4609(a)) is amended—

(A) by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1987"; and

(B) by striking out "fiscal year 1986" and inserting in lieu thereof "fiscal year 1988".

20 USC 4609 note.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1986.

(b) Availability of Funds.—The second sentence of section 1710(a) of such Act (22 U.S.C. 4609(a)) is amended to read as follows: "Amounts appropriated under this section are authorized to remain available to the Institute until expended.".

Approved October 17, 1986.

LEGISLATIVE HISTORY—S. 1965 (H.R. 3700) (H.R. 2246):

HOUSE REPORTS: No. 99-383 accompanying H.R. 3700 and No. 99-589 accompanying H.R. 2246 (both from Comm. on Education and Labor) and No. 99-861 (Comm. of Conference).
SENATE REPORTS: No. 99-296 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 3, 4, H.R. 3700, considered and passed House.
Vol. 132 (1986): May 13, H.R. 2246, considered and passed House.
June 2, 3, S. 1965, considered and passed Senate.
June 17, considered and passed House, amended, in lieu of H.R. 3700 and H.R. 2246.
Sept. 24, House agreed to conference report.
Sept. 25, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22, (1986):
Oct. 17, Presidential statement.

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100 STAT. 3488

Public Law 99-617
99th Congress

An Act

Nov. 6, 1986
[S. 1311]

To authorize the Board of Regents of the Smithsonian Institution to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research in Edgewater, Maryland, and to designate the United States Courthouse and Customhouse in Louisville, Kentucky, as the "Gene Snyder United States Courthouse and Customhouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

20 USC 50 note.

SECTION 1. CONSTRUCTION OF CHARLES McC. MATHIAS, JR. LABORATORY FOR ENVIRONMENTAL RESEARCH.

(a) Construction Authorization.—The Board of Regents of the Smithsonian Institution is authorized to construct the Charles McC. Mathias, Jr. Laboratory for Environmental Research.

(b) Location.—The Charles McC. Mathias, Jr. Laboratory for Environmental Research shall be located at the Smithsonian Environmental Research Center, a bureau of the Smithsonian Institution, located at Edgewater, Maryland.

(c) **Authorization of Appropriations.**—Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution $1,000,000 to carry out the purposes of this section.

Effective date.

(d) **Transfer of Funds.**—Any portion of the sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

SEC. 2. NAMING OF GENE SNYDER UNITED STATES COURTHOUSE AND CUSTOMHOUSE.

(a) **Designation of Building.**—The United States Courthouse and Customhouse at 601 West Broadway, Louisville, Kentucky, shall be known and designated as the "Gene Snyder United States Courthouse and Customhouse".

(b) **Legal References.**—Each reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Gene Snyder United States Courthouse and Customhouse".

(c) **Effective Date.**—Subsections (a) and (b) of this section shall take effect on January 4, 1987.

Approved November 6, 1986.

LEGISLATIVE HISTORY—S. 1311:

SENATE REPORTS: No. 99-414 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 132 (1986):
- Sept. 15, considered and passed Senate.
- Oct. 16, considered and passed House, amended.
- Oct. 18, Senate concurred in House amendments.

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